

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF CORRECTION - HEALTH SERVICES DIVISION

MEDICAL PAROLE  
103 DOC 603

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MASSACHUSETTS DEPARTMENT OF CORRECTION	DIVISION: Health Services
TITLE: MEDICAL PAROLE	NUMBER: 103 DOC 603

**PURPOSE:** The purpose of this policy is to establish policy and guidelines for medical parole.

**REFERENCES:** 103 DOC 603 is issued pursuant to M.G.L. c. 124, §1(q); M.G.L. c. 125, §14; M.G.L. c. 127, §119A

**APPLICABILITY:** Health Service Division                      **PUBLIC ACCESS:** Yes  
Contractual Medical Provider

**LOCATION:** DOC Central Policy File  
Facility Policy File  
Health Services Division Policy File

**RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY:**  
Assistant Deputy Commissioner, Clinical Services  
Superintendents

**PROMULGATION DATE:** 08/7/2018      **EFFECTIVE DATE:** 08/7/2018

**CANCELLATION:** This policy cancels all previous department policy statements, bulletins, directives, orders, notices, rules, and regulations which are inconsistent with this policy.

**SEVERABILITY CLAUSE:** If any part of this policy is for any reason held to be in excess of the authority of the Commissioner, such decision will not affect any other part of this policy.

603.01     Definitions

Commissioner. Commissioner of the Department of Correction.

Department. The Department of Correction established pursuant to M.G.L. c. 27, § 1.

Medical Parole. A release on parole pursuant to G.L. c. 127, §119A due to a terminal illness and/or permanent incapacitation, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk. The Parole Board shall impose terms and conditions for medical parole that shall apply through the date upon which the prisoner's sentence would have expired.

Medical Parole Plan. A comprehensive written medical and psychosocial care plan specific to a prisoner and including, but not limited to: (i) the proposed course of treatment; (ii) the proposed site for treatment and post-treatment care; (iii) documentation that medical providers qualified to provide the medical services identified in the medical parole plan are prepared to provide such services; and (iv) the financial program in place to cover the cost of the plan for the duration of the medical parole, which shall include eligibility for enrollment in commercial insurance, Medicare or Medicaid or access to other adequate financial resources for the duration of the medical parole.

Medical Release. A release on parole pursuant to G.L. c. 127, §119A due to terminal illness and/or permanent incapacitation, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk. The Parole Board shall impose terms and conditions for medical release that shall apply through the date upon which the prisoner's sentence would have expired.

Multidisciplinary Review Team (MRT). A team consisting of the Commissioner's designee, the superintendent of the facility where the prisoner is currently incarcerated, a representative of the Department's health service provider, and the Director of the Department's Classification Division or designee. The team is responsible for evaluating the prisoner's appropriateness for medical parole based on an assessment of his/her medical diagnosis and prognosis, risk of violence and release plan.

Parole Board. The Parole Board established pursuant to M.G.L. c. 27, § 4.

Permanent Incapacitation. A physical or cognitive incapacitation that appears irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk.

Prisoner. A committed offender or such other person as is placed in custody in a correctional facility in accordance with law, as defined in M.G.L. c. 125, §1(m).

Secretary. The Secretary of the Executive Office of Public Safety and Security.

Terminal Illness. A condition that appears incurable, as determined by a licensed physician, that will likely cause the death of the prisoner in not more than eighteen (18) months and that is so debilitating that the prisoner does not pose a public safety risk.

#### 603.02 Request for Medical Parole

- A. Notwithstanding any general or special law to the contrary, a prisoner may be eligible for medical parole due to a terminal illness or permanent incapacitation.
- B. The superintendent of a correctional facility shall consider a prisoner for medical parole upon a written petition by:
  - 1. the prisoner,
  - 2. the prisoner's attorney,
  - 3. the prisoner's next of kin,
  - 4. a medical provider of the correctional facility or
  - 5. a member of the Department's staff.

The petition shall be in writing and submitted on a form made available by the Department for this purpose. (Attachment A). The petition shall be accompanied by (a) a medical parole plan developed by the petitioner and (b) a notarized written diagnosis by a licensed physician if not a medical provider utilized by the Department. Incomplete medical parole plans shall be returned to the petitioner for resubmission of required information.

The prisoner shall be required to sign a release form to permit copies of the petition and all supporting documents to be provided to the appropriate district attorney and to the victim or the victim's family. (Attachment B). The prisoner shall also be required to sign a release form to permit the Department and the Parole Board to assess the prisoner's medical parole plan.

(Attachment C). The Department shall make the appropriate release forms available for these purposes. If the prisoner is not competent to sign the release forms, his/her medical guardian is required to sign the release forms on the prisoner's behalf. The petition shall not be processed without the signed release forms.

Petitions for medical parole must be submitted in writing to the superintendent of the facility where the prisoner is currently incarcerated.

C. The superintendent shall review the petition and, in consultation with the Multidisciplinary Review Team, develop a recommendation as to the release of the prisoner on medical parole. Whether or not the superintendent recommends in favor of medical parole, the superintendent shall, not more than twenty-one (21) days after receipt of the petition and properly completed medical parole plan, transmit the petition, supporting documentation and recommendation to the Commissioner.

The superintendent shall transmit with the recommendation to the Commissioner:

1. the medical parole plan developed by the petitioner, and any modifications or alterations suggested by the superintendent;
2. the written diagnosis by a physician licensed to practice medicine under section 2 of chapter 112 previously submitted by the petitioner to the superintendent, an updated clinical review of the prisoner by the Department's health service provider, and any supplemental medical diagnosis and/or records, which the superintendent deems relevant; and
3. an assessment of the risk for violence that the prisoner poses to society, which shall utilize standardized assessment tools that measure clinical prognosis, such as the LS/CMI assessment tool and/or COMPAS, as well as risk level for classification evaluation purposes.

D. The medical parole plan required by subsection 603.02(B) shall include specific information as to:

1. The proposed course of medical treatment following any release on medical parole;

2. The level of care required and proposed site for any continuing medical treatment and post-treatment care (e.g., private home, skilled nursing care facility, hospice);
3. Availability of medical care and written documentation that medical providers qualified to provide the care proposed are prepared to provide the services required; and
4. The financial program in place to cover the cost of the plan for the duration of any medical parole, including eligibility for enrollment in commercial insurance, Medicare or Medicaid, or access to other adequate financial resources for the duration of any medical parole.

If the medical parole plan proposes a placement outside of the Commonwealth for the prisoner, such placement will be subject to the guidelines of the Interstate Compact for Adult Offender Supervision, and approval of the petition may be conditioned on acceptance by the other jurisdiction, potentially delaying the prisoner's release on medical parole.

603.03     Multidisciplinary Review Team

The Multidisciplinary Review Team (MRT) shall be responsible for reviewing the proposed medical parole plan and supporting documents and assisting the superintendent in formulating his/her recommendation to the Commissioner. The MRT's review shall include, but not be limited to:

- A. confirmation of the written diagnosis of terminal illness and/or permanent incapacitation as determined by the Department's health service provider;
- B. the proposed course of treatment as provided in the medical parole plan submitted by the petitioner;
- C. the proposed site for treatment and post-treatment care;
- D. documentation that medical providers qualified to provide the medical services identified in the medical parole plan are prepared to provide such services;
- E. the financial program in place to cover the cost of the medical parole plan for the duration of the medical parole, which shall include eligibility for enrollment in commercial insurance, Medicare or Medicaid or access to other adequate financial resources for the duration of the medical parole; and

F. the prisoner's suitability for medical parole, utilizing standardized assessment tools such as the LS/CMI assessment tool and/or COMPAS, as well as the prisoner's risk level for classification evaluation purposes.

#### 603.04 Risk for Violence Assessment

The superintendent's risk for violence assessment required by subsection 603.02(C) shall take into consideration:

- A. The prisoner's terminal illness/permanent incapacitation and prognosis (e.g., cancer, AIDS, Alzheimer's disease, Amyotrophic lateral sclerosis (ALS), congestive heart failure, chronic obstructive pulmonary disease (COPD), dementia, emphysema, heart disease, liver disease, renal disease or multiple sclerosis);
- B. The prisoner's current housing situation (e.g., placement in general population, institutional infirmary, Lemuel Shattuck Hospital or outside hospital);
- C. Clinical management of terminal illness/permanent incapacitation;
- D. Assessment for mobility, gait and balance; specifically, whether the prisoner is bed-ridden, wheelchair-bound, uses a walker, or can walk with assistance;
- E. List of medically prescribed and required durable medical equipment or other assistive devices, including but not limited to wheelchairs (manual or electric), hospital beds, traction equipment, canes, crutches, walkers, kidney machines, ventilators, oxygen, monitors, pressure mattresses, and/or lifts;
- F. Ability to manage Activities of Daily Living (ADL);
- G. Psychological assessment;
- H. Advanced Directives/DNR;
- I. The prisoner's height, weight, ability to eat or is fed intravenously;
- J. Whether an electronic monitoring bracelet is warranted.

603.05 Notification to District Attorneys and  
Victims'/Victims' Families

Upon his receipt of the medical parole petition, supporting documentation and recommendation of the superintendent where the prisoner is currently incarcerated, the Commissioner shall notify, in writing, the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred, the prisoner, the person who petitioned for medical parole, if not the prisoner and, if applicable under M.G.L. chapter 258B, the victim or the victim's family entitled to receive notification pursuant to M.G.L. c.6, §178A through the Department's Office of Victim Services, that the prisoner is being considered for medical parole. The parties who receive the notice shall have an opportunity to provide written statements; provided, however, that if the prisoner was convicted and is serving a sentence under M.G.L. c. 265, §1, the district attorney or victim's family may request a hearing.

603.06 Hearings

The Commissioner, in his discretion, may conduct a hearing on the medical parole petition pursuant to subsection 603.05. The following procedures shall apply to any such hearing:

- A. The hearing shall be closed to the public and to the media.
- B. The Commissioner shall determine who may attend the hearing. Attendees may include, but are not limited to:
  1. the prisoner;
  2. the person who petitioned for medical parole, if not the prisoner;
  3. an attorney for the prisoner or petitioner;
  4. the district attorney for the jurisdiction where the offense occurred that resulted in the prisoner's governing sentence to the Department, and/or one or more persons designated by the district attorney;
  5. the victim and/or the victim's family, if applicable under M.G.L. c. 258B;
  6. such other Department staff as designated by the Commissioner.
- C. The hearing shall be held within the correctional facility where the prisoner is currently incarcerated or in another suitable location determined by the Commissioner. In the Commissioner's discretion, videoconferencing technology may be used.

- D. Persons who give oral testimony at the hearing shall be under oath.
- E. The hearing shall be recorded in a manner to allow a written transcript of the hearing to be produced if necessary.
- F. The Commissioner shall govern the conduct of every phase of the hearing and the conduct of all attendees, including placing reasonable time limits on the length of oral testimony. The Commissioner may ask questions, but otherwise, questioning of witnesses by attendees shall not be allowed.
- G. The Commissioner shall not be bound by the rules of evidence or privilege observed by the courts of the Commonwealth.

603.07     Referral to the Parole Board

If it appears to the Commissioner that a decision to release the prisoner on medical parole is likely, the Commissioner shall refer the case to the Parole Board to investigate and report on the suitability of the proposed place of residence set forth in the medical parole plan and to set appropriate terms and conditions for medical parole. The Commissioner shall make this referral to the Parole Board within 30 days after receiving the superintendent's recommendation and supporting documents.

603.08     Review of Medical Parole Eligibility

The Commissioner shall issue a written decision not later than forty-five (45) days after receipt of the superintendent's recommendation and supporting documents. The decision shall be accompanied by a written statement of reasons for the Commissioner's decision. If the Commissioner determines that a prisoner is terminally ill or permanently incapacitated such that if released, the prisoner will live and remain at liberty without violating the law and the release will not be incompatible with public safety or the welfare of society, the prisoner shall be released on medical parole. The Commissioner may set conditions which must be met prior to the prisoner's release on medical parole. A copy of the Commissioner's written decision shall be provided to the individuals entitled to notice as set forth in subsection 603.05.

603.09     Notices

Not less than twenty-four (24) hours before the date of a prisoner's release on medical parole, the Commissioner shall notify the following, in writing, including identification of the prisoner's release date and the terms and conditions of the release:

- A. The district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred,
- B. The department of state police,
- C. The police department in the city or town in which the prisoner shall reside and,
- D. If applicable under M.G.L. chapter 258B, the victim or the victim's family, through the Department's Office of Victim Services.

603.10     Parole Board Jurisdiction, Supervision, and Control

The Parole Board shall impose terms and conditions for medical parole that shall apply through the date upon which the prisoner's sentence would have expired.

A prisoner granted release under this section shall be under the jurisdiction, supervision and control of the Parole Board, as if the prisoner had been paroled pursuant to M.G.L. c. 127, §130. The Parole Board may revise, alter or amend the terms and conditions of a medical parole at any time.

If a parole officer receives credible information that a prisoner has failed to comply with a condition of the prisoner's medical parole or upon discovery that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for medical parole pursuant to law, the parole officer shall immediately arrest the prisoner and bring the prisoner before the board for a hearing. If the Parole Board determines that the prisoner violated a condition of the prisoner's medical parole or that the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for medical parole pursuant to law, the prisoner shall resume serving the balance of the sentence with credit given only for the duration of the prisoner's medical parole that was served in compliance with all conditions of his/her medical parole. Revocation of a prisoner's medical parole due to a change in the prisoner's medical condition shall not preclude a prisoner's eligibility for

medical parole in the future or for another form of release permitted by law.

#### 603.11 Legal Challenges to Medical Parole Decisions

A prisoner, sheriff or superintendent aggrieved by a decision denying or granting medical parole may petition for relief pursuant to M.G.L. c. 249, §4. A decision by the court affirming or reversing the Commissioner's grant or denial of medical parole shall not affect a prisoner's eligibility for any other form of release permitted by law. A decision by the court pursuant to this section shall not preclude a prisoner's eligibility for medical parole in the future.

#### 603.12 Reporting

The Commissioner and the Secretary shall file an annual report not later than March 1 with the clerks of the Senate and the House of Representatives, the Senate and House Committees on Ways and Means and the Joint Committee on the judiciary detailing, for the prior fiscal year:

- a. the number of prisoners in the custody of the Department or of the sheriffs who applied for medical parole and the race and ethnicity of each applicant;
- b. the number of prisoners who have been granted medical parole and the race and ethnicity of each prisoner;
- c. the nature of the illness of the applicants for medical parole;
- d. the counties to which the prisoners have been released;
- e. the number of prisoners who have been denied medical parole, the reason for the denial and the race and ethnicity of each prisoner;
- f. the number of prisoners who have petitioned for medical parole more than once;
- g. the number of prisoners released who have been returned to the custody of the Department or the sheriff and the reason for each prisoner's return; and
- h. the number of petitions for relief filed in court pursuant to M.G.L. c. 249, §4.

No information provided in this report shall include personally identifiable information of the prisoners.

**MASSACHUSETTS DEPARTMENT OF CORRECTION  
Medical Parole Application**

**Prisoner's Name:** \_\_\_\_\_ **Facility:** \_\_\_\_\_

**Commitment ID#:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_\_

**Date of Application:** \_\_\_\_\_

Race/Ethnicity (**Check One**):  White  Black or African American  Hispanic and Latino  
 Native Hawaiians and other Pacific Islanders  Native American or Alaska Native  Asian  
 Middle Eastern American

**Is this the first petition for medical parole filed by or on behalf of this prisoner?**  Yes  
 No

**If "No" to the above question, number of such petitions prior to this one.** \_\_\_\_\_

**Name and address of petitioner:** \_\_\_\_\_  
**(if not the prisoner)** \_\_\_\_\_

**Relationship to prisoner:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_

**I. MEDICAL PAROLE SUMMARY**

**A. REASON FOR REQUEST:** Terminal Illness  Permanent Incapacitation   
Attach written statement or fill in below and attach additional pages as necessary.

**B. MEDICAL DIAGNOSIS AND PROGNOSIS:**  
Attach the original documentation from a licensed medical provider. The medical provider's signature on the document must be notarized if not one used by the department. Please summarize the diagnosis below.

**C. MEDICAL PAROLE PLAN:**

Attach a written statement to explain your medical parole plan. Include the (a) proposed course of treatment; (b) the proposed site for treatment and post-treatment care; (c) documentation that medical providers qualified to provide the medical services identified in the plan are prepared to provide such services; and (d) the financial program in place to cover the cost of the plan for the duration of the medical parole. Provide a summary below and attach additional pages as necessary.

a. **Name of Qualified Medical Provider:** \_\_\_\_\_

b. **Provider's Address:** \_\_\_\_\_  
\_\_\_\_\_

c. **Provider's Phone:** \_\_\_\_\_  
\_\_\_\_\_

d. **Proposed course of treatment:** \_\_\_\_\_  
\_\_\_\_\_

e. **Proposed site for treatment/post-treatment care:** \_\_\_\_\_  
\_\_\_\_\_

f. **Financial source of payment:** \_\_\_\_\_

g. **Additional comments (Please provide additional information or clarification below. Attach supporting documentation, as appropriate.)**

**II. RELEASE FORMS**

The prisoner is required to sign the attached Release Form to permit copies of the petition and all supporting documentation to be provided to other criminal justice agencies, to the appropriate

district attorney and to the victim or the victim's family. The prisoner is also required to sign a release form to permit the Department and the Parole Board to assess the prisoner's medical parole plan. The petition cannot be processed without the signed release forms.

**III. DATE PETITION WAS SUBMITTED TO FACILITY SUPERINTENDENT:**  
\_\_\_\_\_ via U.S. mail/email (Circle one.)

**RELEASE OF INFORMATION**  
**REGARDING PETITION FOR MEDICAL PAROLE**

I, \_\_\_\_\_, hereby authorize the  
(print name and commitment #)  
Department of Correction to release copies of my petition for  
medical parole and all supporting documentation, including any  
and all Criminal Offender Record Information (CORI), medical  
records, evaluative information and other information related to  
the petition, to other criminal justice agencies, to the office  
of the appropriate district attorney and, if applicable, to the  
victim(s) of the crime for which I am serving a sentence of  
incarceration or to the family of the victim(s). I understand  
that the Department may release this information pursuant to its  
legal duty to notify the district attorney and, if applicable,  
the victim or his/her family of my petition such that those  
persons will have a fair opportunity to provide written  
statements or, in certain cases, to request a hearing regarding  
my request for medical parole.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Inmate)

\_\_\_\_\_  
(Witness)

**CONSENT FOR THE RELEASE  
OF CONFIDENTIAL INFORMATION  
REGARDING MEDICAL PAROLE PLAN**

I, \_\_\_\_\_ authorize (check all applicable parties):  
(Print Name of Inmate)

- Parole Board
- Department of Correction & other criminal justice agencies
- \_\_\_\_\_  
Program
- \_\_\_\_\_  \_\_\_\_\_  
Medical Provider Relative
- \_\_\_\_\_  \_\_\_\_\_  
Hospice Other

to communicate with and disclose to one another the following information:

- My diagnosis, prognosis, medical parole plan, proposed course of medical treatment, proposed site for medical treatment and post-treatment care, financial source of payment for medical treatment, and
- Any employee, officer or other agent of the Parole Board and the Department of Correction has my permission to discuss my case with any person or agency associated with my medical parole plan or any program involved with my supervision under medical parole. Such information may include, but is not limited to, the sentence I am now serving, crimes in my criminal history, conditions of my medical parole and any other information that may be relevant to my release on medical parole.

The purpose of the disclosure is to permit the Parole Board and the Department of Correction to investigate and assess my medical parole plan and any relevant information associated therewith for purposes of G.L. c. 127, § 119A.

If I am granted medical parole, this consent will remain valid for the duration of my medical parole and until I am discharged from my sentence, in order for the Parole Board to perform all aspects of supervision per G.L. c. 127, § 119A(f) and G.L. c. 127, § 130.

I understand that the medical parole petition will not be processed if I refuse to consent to this disclosure.

I acknowledge that I have read this form carefully and/or with the benefit of counsel of my own choosing.

Dated: \_\_\_\_\_  
Signature of Inmate/Guardian