
 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	TITLE		NO. 4304
	<b>Medical Parole</b>		DATE 04/08/2014
SUPERSEDES DIR# 4304 Dtd. 03/01/13	DISTRIBUTION A B	PAGES PAGE 1 OF 4	DATE LAST REVISED
REFERENCES (Include but are not limited to) Executive Law 259-r and 259-s	APPROVING AUTHORITY 		

- I. PURPOSE:** This directive implements Executive Law, Sections 259-r and 259-s, “Release on Medical Parole,” as it assigns specific responsibilities and functions to the Department of Corrections and Community Supervision.
- II. ELIGIBILITY:** An incarcerated individual serving an indeterminate or determinate sentence may be eligible for Medical Parole if:
1. The incarcerated individual has:
    - a. A terminal health condition; or
    - b. A significant and permanent non-terminal condition, disease, or syndrome;
  2. The incarcerated individual is so physically or cognitively debilitated or incapacitated that there is a reasonable probability that he or she no longer presents any danger to society;
  3. The incarcerated individual is not serving a sentence for Murder in the First Degree, or an Attempt to or Conspiracy to Commit Murder in the First Degree; and
  4. If the incarcerated individual is serving a sentence for Murder in the Second Degree, Manslaughter in the First Degree, any offense defined in Article 130 of the Penal Law or an attempt to commit any of these offenses, the incarcerated individual shall have served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of his or her sentence.
- III. PROCEDURE**
- A. Requests: At any time during an incarcerated individual’s sentence, the incarcerated individual or someone acting on behalf of the incarcerated individual, or a Department employee, may make a request to the Commissioner or to the Division of Health Services that the incarcerated individual be considered for Medical Parole.
- The Division of Health Services shall keep a record of each request and, for medically appropriate cases, notify the Office of Classification and Movement which will determine the incarcerated individual’s eligibility based on crime or sentence. If not disqualified by reason of crime or sentence, the Commissioner may, in his or her discretion, order a medical evaluation and discharge plan.
- B. Medical Evaluation
- The evaluation shall be made by a physician licensed to practice medicine in this State. Such physician shall either be employed by the Department, or shall render professional

services at the request of the Department, or shall be employed by a hospital or medical facility used by the Department for medical treatment of incarcerated individuals.

The evaluation shall, at minimum, include:

1. A description of the condition, disease, or syndrome suffered by the incarcerated individual;
2. A prognosis concerning the likelihood that the incarcerated individual will not recover from such condition, disease, or syndrome;
3. A description of the incarcerated individual's physical or cognitive incapacity, which shall include an assessment of ability to self-ambulate or perform significant normal activities of daily living, and a prediction concerning the likely duration of that incapacity;
4. A list of current medications and their dosages, and comment on the incarcerated individual's ability to self-administer such medications;
5. A statement by the physician of whether the incarcerated individual is so physically or cognitively debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate and to perform significant normal activities of daily living; and
6. A recommendation of the type and level of services and treatment the incarcerated individual would require if granted Medical Parole and a recommendation for the types and settings in which the services and treatment should be given.

- C. Certification of Eligibility: The medical evaluation report shall be promptly forwarded to the Deputy Commissioner/Chief Medical Officer or his or her designee. The Deputy Commissioner/Chief Medical Officer shall determine within seven (7) working days of receipt of the medical evaluation and recommendation and advise the Commissioner if the incarcerated individual's medical status conforms to the criteria for Medical Parole.
- D. Referral to the Office of Victim Assistance: The Medical Parole Coordinator for Health Services will notify the Office of Victim Assistance of all cases that are being sent to the Deputy Commissioner/Chief Medical Officer and the Commissioner for review and approval. The Office of Victim Assistance will respond to the Medical Parole Coordinator for Health Services if there is a registered victim associated with the case in question. This information will be sent with the medical information to the Deputy Commissioner/Chief Medical Officer. If the case is approved by the Commissioner to proceed to the Board of Parole and there is a registered victim, the Medical Parole Coordinator for Health Services will inform the Office of Victim Assistance that the case is approved and will be sent to the Board of Parole.
- E. Referral to the Parole Board: Once an incarcerated individual is certified as eligible for Medical Parole by the Commissioner, the incarcerated individual shall be referred to the Board of Parole for consideration for release on Medical Parole.

The request shall be accompanied by the Deputy Commissioner/Chief Medical Officer's Medical Parole Request Summary and approval, a Comprehensive Medical Summary (CMS), NYS Patient Review Instrument (PRI), NYS Screen, and information on registered victims from the Office of Victim Assistance.

F. Medical Discharge Plan: As soon as an eligible incarcerated individual is referred to the Board of Parole, facility and Central Office Health Services and Community Supervision staff having knowledge, access to resources, and communications with relevant parties, shall begin preparing a medical discharge plan. Facility and Central Office Health Services and Community Supervision staff are authorized to request assistance from the Department of Health and from the county in which the incarcerated individual resided and committed his or her crime. This plan shall be forwarded as soon as possible to Community Supervision for review and final approval from a supervision perspective.

The Deputy Commissioner/Chief Medical Officer may issue specific directions on a case-by-case basis. Typically, however, it is anticipated that Central Office Health Services staff in collaboration with the Facility Health Services staff and Community Supervision staff shall identify and select specific providers.

1. The medical discharge plan shall take into account the incarcerated individual's preferences for placement to the extent possible, and shall include:
  - a. A level of care determination;
  - b. A description of special equipment or transportation needs and identification of the provider(s) of the equipment or transportation;
  - c. A description of the incarcerated individual's participation in the discharge plan and selection of care if competent to do so; if not competent, a description of surrogate decision maker's involvement, if any;
  - d. For home-care plans, an assessment will be conducted by Community Supervision staff who will visit the incarcerated individual's home and review the adequacy of the physical environment relative to the incarcerated individual's medical condition, health care needs, and evaluate the incarcerated individual's personal-support system;
  - e. A description of the ancillary support(s) needed by the incarcerated individual and/or care-giver and arrangements for same;
  - f. A report on the status of applications for Public Assistance/Medicaid/SSI(A)/Private Insurance; and
  - g. A report on the status of applications for institutional placement, if any.
2. When it appears by the report of the examining physician that an incarcerated individual's medical condition may meet the criteria for Medical Parole and the incarcerated individual may be in need of Public Assistance/Medicaid/SSI(A)/Private Insurance, facility staff shall notify the Offender Rehabilitation Coordinator who shall cause an appropriate application to be forwarded to the responsible department.
3. When an incarcerated individual who qualifies for release under Medical Parole is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan, and after a diligent search no person has been identified who could otherwise be appointed as the incarcerated individual's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the

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medical discharge plan, the Facility Health Services Director at the facility where the incarcerated individual is currently incarcerated shall be lawfully empowered to act as the incarcerated individual's guardian for the purpose of effectuating his or her medical discharge.

- G. Pre-Release Responsibilities: Upon notification by the Board of Parole that the incarcerated individual has been granted Medical Parole, Facility Health Services staff in collaboration with the Offender Rehabilitation Coordinator and Central Office Health Services staff shall coordinate release and transportation arrangements. The Facility Health Services staff shall copy all appropriate medical records in its possession and send them to the physician or facility accepting care of the incarcerated individual.