



Department of Corrections and Community Supervision

Medical Parole Legislative Report

2023

TABLE OF CONTENTS

SECTION ONE: *Medical Parole Program* 3

SECTION TWO: *Medical Parole Applications to the Parole Board* 5

SECTION THREE: *Parole Board Activity* 6

SECTION FOUR: *Active Cases, Returns, and Concluding Remarks*..... 9

Section 1 – Medical Parole Program

Chapter 55 of the Laws of 1992 created the New York State Medical Parole Law by enacting Section 259-r of the Executive Law. This statute took effect in April 1992 and authorizes the Board of Parole to grant parole release to certain terminally ill incarcerated individuals prior to the expiration of the minimum period of their sentence. Previously, only a grant of executive clemency could allow for the release of a terminally ill individual before their parole eligibility date. As a result, incarcerated individuals suffering from debilitating and terminal diseases spent their final days far from their families and at a significant cost to the State. Medical parole represented compassionate and practical treatment of dying incarcerated individuals who were so ill that there was a reasonable probability they were incapable of presenting any danger to society.

Chapter 56 of the Laws of 2009 added Section 259-s of the Executive Law, further authorizing the Board to grant release to medical parole those incarcerated individuals who are certified as suffering from a significant debilitating illness.

Consistent with Department of Corrections and Community Supervision (DOCCS) policy, Department staff follow agency Directive 4304, “Medical Parole and Compassionate Release”, to assess an eligible incarcerated individual’s medical condition and the DOCCS Commissioner certifies cases to the Board following a medical assessment for review and consideration under sections 259-r (terminal) and 259-s (non-terminal) of the Executive Law.

Eligibility

Release on medical parole may be granted by the Board of Parole only after an incarcerated individual is diagnosed by a physician to suffer from either a terminal medical condition or a permanent non-terminal medical condition that renders them so debilitated or incapacitated, mentally or physically, as to be severely restricted in their ability to self-ambulate or to perform significant normal activities of daily living. The DOCCS Commissioner or their designee reviews the physician's diagnosis and certifies that the incarcerated individual is so debilitated or incapacitated as to create a reasonable probability that the individual is physically or cognitively incapable of presenting any danger to society.

The convictions and sentences of all applicants are thoroughly screened to ensure that ineligible incarcerated individuals are excluded from medical parole consideration. Sections 259-r and 259-s of the Executive Law deem incarcerated individuals serving a sentence for first-degree murder, or an attempt or conspiracy to commit first-degree murder ineligible for medical parole. Individuals serving sentences for second-degree murder, first-degree manslaughter, any Penal Law Article 130 crime (Sex Offenses), or an attempt to commit any of these offenses must have served at least one-half of the

minimum period of their sentence, or at least one-half of their sentence (in the case of a determinate sentence).

The Release Decision

The Parole Board uses standards referenced in sections 259-r and 259-s of the Executive Law to make medical parole release decisions. These sections mandate that release on medical parole be granted, “only after the board considers whether, in light of the incarcerated individual’s medical condition, there is a reasonable probability that the incarcerated individual, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law.” The law also empowers the Board to grant release on medical parole to DOCCS-certified applicants at specified times during their incarceration, prior to completion of the court-imposed minimum sentence. As with any case considered for discretionary release, a panel consisting of no fewer than two or no more than three Board commissioners is required to conduct an interview with the incarcerated individual and review the case record that was prepared by DOCCS staff.

Pursuant to sections 259-r and 259-s of the Executive Law, the sentencing judge, prosecuting district attorney, and defense counsel are provided written notice when the incarcerated individual is being considered for medical parole and are afforded an opportunity to submit comments to the Board. The Board cannot make a release decision until the expiration of the prescribed comment period, which is 15 days for terminally ill people and 30 days for non-terminally ill people.

The Department is statutorily required to provide a medical discharge plan to the Board for its review and consideration when assessing the appropriateness for granting release. These discharge plans are developed consistent with hospital discharge planning regulations and identify the level of medical care the incarcerated individual will require upon release and confirms the availability of a suitable placement in the community.

In 2015, Executive Law governing release on medical parole was amended again, adding section 259-r (10) & (11) to allow incarcerated individuals serving sentences for a non-violent crime to be granted medical parole presumptively by the DOCCS Commissioner with the review and approval of the Parole Board Chair. During 2023, there were three discretionary medical parole cases, which are included in the statistics reported.

During 2023, 351 initial requests for medical parole were submitted to the DOCCS Chief Medical Officer (CMO).

Section 2 – Medical Parole Applications to the Parole Board

There were 168 certified medical parole applications submitted to the Board of Parole from 2019 through 2023, which represents an average of 34 applications submitted per year during this five-year period. The 61 applications in 2023 were nearly double the applications in 2019 and 2022 and about triple the applications in 2020 and 2021. These 168 applications represented 162 incarcerated individuals. Six individuals submitted an additional application within the timeframe.

Among the 168 medical parole applications, 92 percent (155) of the applications were for males and 83 percent (140) were for individuals aged 50 and older. The average age of applicants during the five-year period was 61 years old. Cancer was the most frequent diagnosis (39% of 168 applications).

**TABLE 1. MEDICAL PAROLE APPLICATIONS TO THE PAROLE BOARD
INDIVIDUAL CHARACTERISTICS
2019 through 2023**

	Application Year					Total	%
	2019	2020	2021	2022	2023		
GENDER							
Male	29	17	20	30	59	155	92.3%
Female	5	2	2	2	2	13	7.7%
AGE							
Under 20	0	0	0	0	0	0	0.0%
20-29	1	0	0	0	1	2	1.2%
30-39	2	5	2	3	4	16	9.5%
40-49	2	2	1	2	3	10	6.0%
50-59	10	7	4	6	10	37	22.0%
60-69	13	2	9	11	25	60	35.7%
70-79	2	2	4	8	13	29	17.3%
80-89	4	1	2	2	5	14	8.3%
Average Age	60	53	61	63	63	61	
DIAGNOSIS							
Alzheimers	1	0	1	1	1	4	2.4%
Cancer	14	11	11	14	15	65	38.7%
COPD	0	1	0	0	5	6	3.6%
Diabetes	2	0	0	1	1	4	2.4%
Heart Disease	5	0	3	5	14	27	16.1%
Kidney Disease	0	0	1	1	5	7	4.2%
Liver Disease	1	0	0	2	1	4	2.4%
Parkinsons	0	1	0	0	0	1	0.6%
Stroke	0	2	2	2	8	14	8.3%
Other	11	4	4	6	11	36	21.4%
TOTAL APPLICATIONS	34	19	22	32	61	168	

*Counts are for all certified medical parole applications - some individuals submitted multiple applications

Section 3 – Parole Board Activity

Among the 168 certified medical parole applications submitted to the Board of Parole for consideration, 149 medical parole interviews were conducted by the Board of Parole while 19 certified medical parole applications were not reviewed between 2019 and 2023. As shown in Figure 1 (page 10), those 19 cases are broken down as follows: 16 individuals died prior to their Board interview, two were released on regular parole, and one was awaiting an interview at the end of 2023.

The 149 interviews included applications for medical parole made between 2019 and 2023, as well as applications made prior to 2019, and re-applications following a denial. Table 2 shows the outcome of those interviews.

**TABLE 2. MEDICAL PAROLE BOARD INTERVIEWS AND REVIEWS
2019 through 2023**

	Interview Year					Total
	2019	2020	2021	2022	2023	
Medical Parole Interviews & Reviews	27	16	24	26	56	149
Granted Release	19	14	21	21	40	115
Denied Release	8	2	2	5	14	31
Postponed	0	0	1	0	2	3
Approval Rate*	70%	88%	88%	81%	71%	77%

* The approval rate represents the number of Medical Parole interviewees that were granted release in that year, not the number of applications in that year that were ultimately granted release.

Releases

Of the 115 interviews and reviews resulting in a release decision from 2019 through 2023, 82 individuals (71%) were released to the community and 33 individuals were not released; 16 died prior to release while 17 were awaiting release at the end of 2023 (see Figure 1 for additional details). Table 3 shows the county of commitment for individuals who were released by year of release.

**TABLE 3. MEDICAL PAROLE RELEASES TO THE COMMUNITY BY COUNTY
2019 through 2023**

County of Release	Release Year*					Total
	2019	2020	2021	2022	2023	
Albany	0	1	0	0	3	4
Bronx	0	0	0	3	3	6
Cayuga	0	0	0	0	1	1
Clinton	0	0	0	1	0	1
Dutchess	1	0	0	0	0	1
Erie	0	1	2	1	0	4
Kings	2	0	0	0	2	4
Monroe	1	0	0	0	0	1
Nassau	0	0	0	1	0	1
New York	2	2	1	1	2	8
Niagara	1	0	1	1	1	4
Oneida	2	0	0	0	0	2
Onondaga	1	1	1	0	0	3
Orange	2	0	0	4	1	7
Queens	0	1	3	3	5	12
Richmond	0	1	0	0	1	2
Rockland	0	0	0	0	1	1
St. Lawrence	0	0	1	0	0	1
Seneca	0	0	0	0	1	1
Suffolk	0	1	1	1	1	4
Sullivan	0	1	0	0	1	2
Tioga	0	1	0	0	0	1
Westchester	0	2	2	1	1	6
Out of State	1	0	0	2	2	5
Total	13	12	12	19	26	82

*Indicates individuals released per year.

More than half (55%) of the individuals released on medical parole from 2019 through 2023 were released to live in private residences while 28 percent went to skilled nursing facilities or hospitals. Table 4 shows the placement of individuals by year of release.

**TABLE 4. TYPE OF MEDICAL PAROLE PLACEMENT
2019 through 2023**

Medical Parole Placement	Release Year*					Total
	2019	2020	2021	2022	2023	
Private Residence	4	8	6	12	15	45
Skilled Nursing/Hospital	3	2	5	6	7	23
Other	6	2	1	1	4	14
Total	13	12	12	19	26	82

*Indicates individuals released per year.

Denials

Between 2019 and 2023, there were 31 denials among the 149 medical parole interviews and reviews. Medical parole applicants can be denied release for multiple reasons. Among all of the factors considered by the Board of Parole, interviews which result in a denial are generally denied for one or more of these consideration reasons: criminal history, risk of reoffending, official/community opposition, and deprecation of the law.

Section 4 – Active Cases and Returns

Among the 82 individuals released from custody, 60 (73%) individuals remained on Community Supervision at the end of 2023; 25 were on active medical parole supervision and 35 were on regular parole supervision. Sixteen individuals (20%) died after release, three transferred out of state, one was discharged from supervision and two returned to prison for violating conditions of parole.

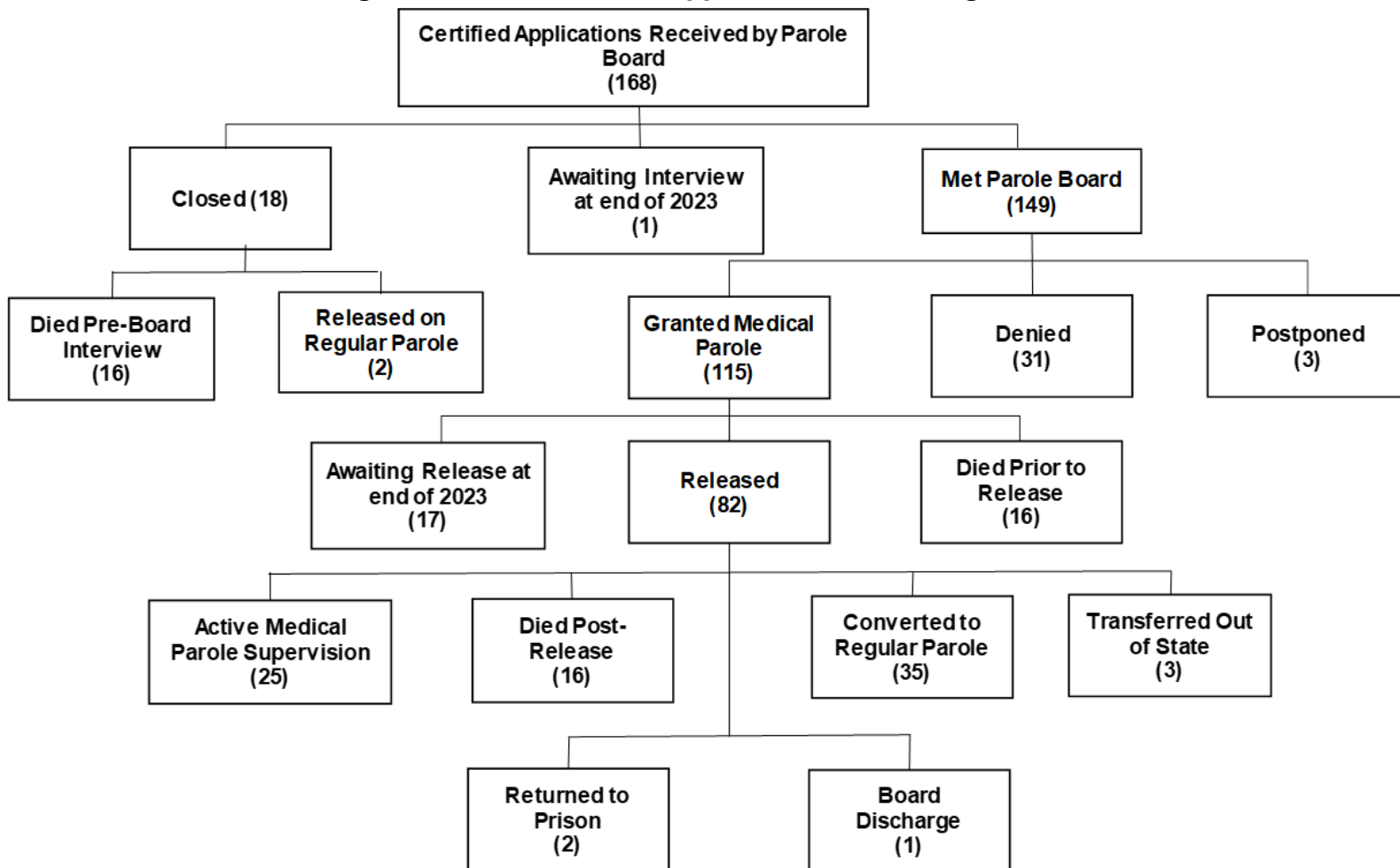
During 2023, Health Services received 351 initial applications for medical parole consideration. During 2023, the Department's CMO reviewed 497 applications including a number submitted prior to 2023 (Figure 2, page 11).

Among the 69 applications approved by the CMO, 61 (88%) were approved by the Commissioner and submitted to the Board of Parole for review.

As shown in Figure 2, among the 61 medical parole applications received by the Board of Parole in 2023, 55 (90%) met with the Board of Parole and 39 of those (71%) were granted medical parole. Of the 39 individuals, 23 were released on medical parole, while 13 were awaiting release at the end of 2023 and three individuals died prior to release.

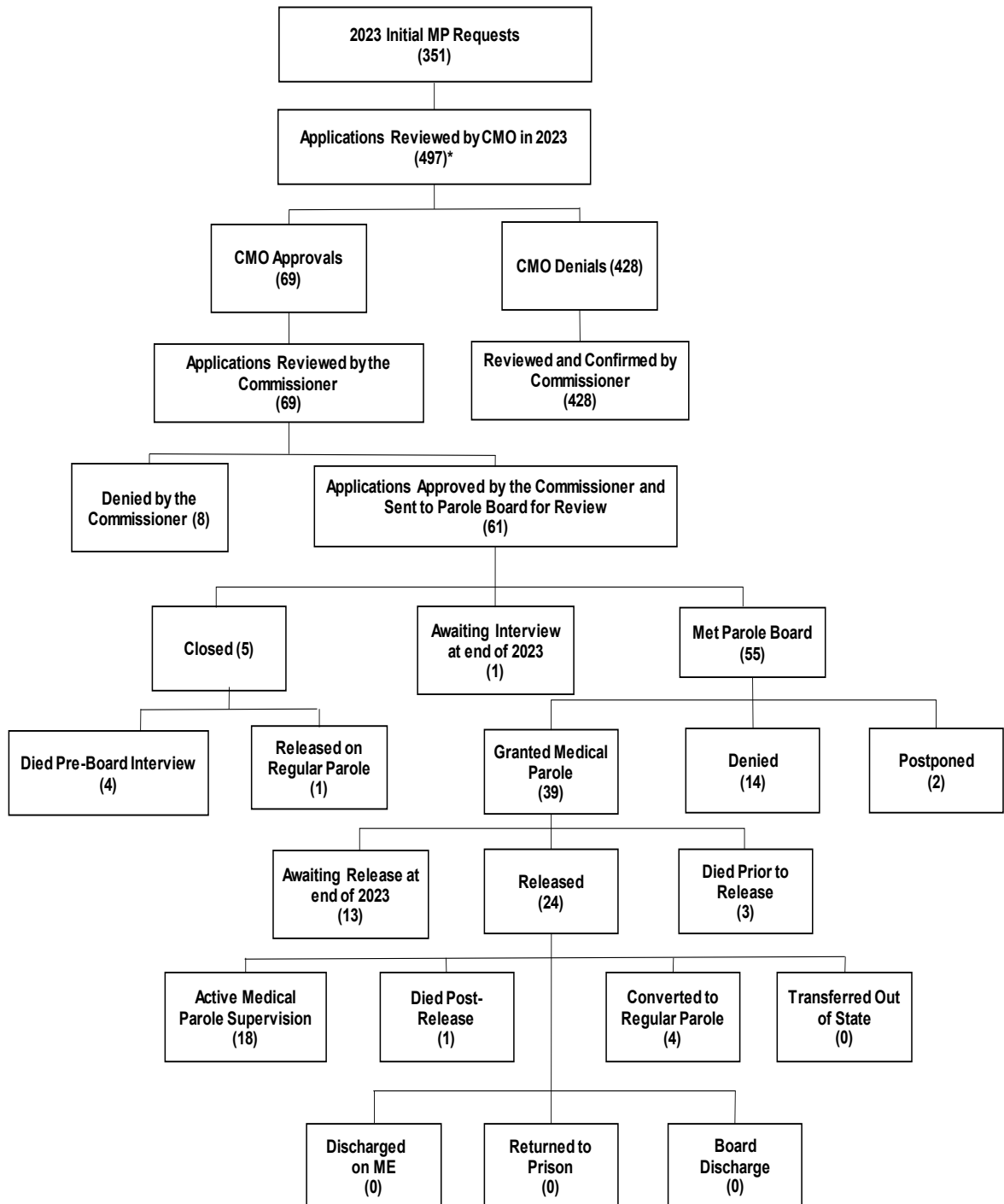
During the five-year period of 2019 through 2023, approximately 11,097 prison days were saved due to early release to medical parole supervision. One individual served 254 fewer days, the most of any person released, and the average savings attributable to medical parole release was 160 days.

Figure 1: Medical Parole Application Processing 2019 – 2023*



*Information on the application process prior to Parole Board reception was unavailable for 2019-2022. This figure presents the process after CMO and Commissioner approval.

Figure 2: Medical Parole Application Processing 2023



*Applications reviewed in 2023 may include applications received in the prior year.

**This figure presents applications received by the Parole Board in 2023 that resulted in a Board interview/review during the year. The figure may not match the total number of interviews/reviews conducted on Table 2.

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