

501 CMR: EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

501 CMR 17.00: MEDICAL PAROLE

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17.01: Purpose and Statutory Authorization

The purpose of 501 CMR 17.00 is to govern the administration and enforcement and administration of petitions for medical parole, as required by M.G.L. c. 127, § 119A.

17.02: Definitions

Commissioner. The Commissioner of the Department of Correction.

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

Debilitating Condition. A medical or mental condition, resulting from illness, trauma, and/or age, which causes such significant and serious impairment of strength or ability to perform daily life functions such as eating, breathing, toileting, walking or bathing so as to render the prisoner permanently incapable of committing a crime if released on medical parole, and that requires the prisoner's placement in a specialized medical setting for long term care.

Medical Parole. A release on parole pursuant to M.G.L. c. 127, § 119A due to a terminal illness and/or permanent incapacitation, as determined by a licensed physician, 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:

- (a) the proposed course of treatment;
- (b) the proposed site for treatment and post-treatment care (home plan);
- (c) documentation that medical providers qualified to provide the medical services identified in the medical parole 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, 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 M.G.L. c. 127, § 119A due to a terminal illness and/or permanent incapacitation as determined by a licensed physician, 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.

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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 a clinical assessment of the prisoner's medical diagnosis and prognosis, the risk of violence as determined by correctional professionals and review of the medical parole plan submitted by the petitioner.

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, that is so debilitating that the prisoner does not pose a public safety risk.

Prisoner. A committed offender serving a sentence. Persons who are awaiting trial and persons civilly committed pursuant to M.G.L. c. 123A shall not be deemed prisoners for purposes of 501 CMR 17.00.

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 18 months, that is so debilitating that the prisoner does not pose a public safety risk.

17.03: Request for Medical Parole for Prisoners Committed to the Custody of the Department

(1) 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.

(2) The superintendent of a correctional facility shall consider a prisoner for medical parole upon receipt of a written petition submitted by:

- (a) the prisoner;
- (b) the prisoner's attorney;
- (c) the prisoner's next of kin;
- (d) a medical provider of the correctional facility; or
- (e) a member of the Department's staff.

(3) The petition shall be in writing and submitted on a form made available by the Department for this purpose. The petition shall be accompanied by:

- (a) a medical parole plan developed by the petitioner and submitted in accordance with the requirements of 501 CMR 17.03(4);
- (b) a notarized written diagnosis by a licensed physician or a medical provider identified by the petitioner, if not a medical provider utilized by the Department;
- (c) a release form provided by the Department and signed by the prisoner to permit copies of the petition and all supporting documents to be provided to other criminal justice agencies, the appropriate district attorney and to the victim or the victim's family; and
- (d) a release form provided by the Department and signed by the prisoner to permit the Department and the Parole Board to assess the petitioner's medical parole plan for the prisoner.

If the prisoner is not competent to sign the release forms, his or her medical guardian is required to sign the release forms on the prisoner's behalf.

(4) The medical parole plan required by 501 CMR 17.03(3) shall be developed by the petitioner and shall include specific information as to:

- (a) the proposed course of medical treatment following any release on medical parole;
- (b) 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);
- (c) availability of medical care and written documentation that medical providers qualified to provide the care proposed are prepared to provide the services required; and

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- (d) 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.
- (5) Incomplete petitions shall be returned to the petitioner for resubmission of the required information and documentation. A petition shall be considered incomplete when one or more of the following applies:
- (a) the petition is not submitted on the form provided by the Department for this purpose;
 - (b) the petition is submitted without a medical parole plan;
 - (c) the petition is submitted with a medical parole plan that does not include the specific information required by 501 CMR 17.03(4) or that was developed by any person other than the petitioner;
 - (d) the petition is submitted without a notarized written diagnosis by a licensed physician or a medical provider identified by the petitioner, if not a medical provider utilized by the Department;
 - (e) the petition is submitted without a release form provided by the Department and signed by the prisoner, or by the prisoner's medical guardian if the prisoner is incompetent, to permit copies of the petition and all supporting documents to be provided to other criminal justice agencies, the appropriate district attorney and to the victim or the victim's family; or
 - (f) the petition is submitted without a release form provided by the Department and signed by the prisoner, or by the prisoner's medical guardian if the prisoner is incompetent, to permit the Department and the Parole Board to assess the petitioner's medical parole plan for the prisoner.
- (6) Petitions must be submitted to the superintendent of the facility where the prisoner is currently incarcerated, unless the prisoner is housed at Lemuel Shattuck Hospital, in which case the petition should be submitted to the facility to which the prisoner is classified. A petition submitted to any other Department employee or facility other than the superintendent of the facility where the prisoner is currently incarcerated shall not be forwarded to the Commissioner and shall be returned to the petitioner.
- (7) Properly submitted petitions for medical parole shall be reviewed by the superintendent of the facility where the prisoner is currently incarcerated. The superintendent shall, in consultation with the Multidisciplinary Review Team, develop a recommendation as to whether the prisoner should be released on medical parole. Whether or not the superintendent recommends in favor of medical parole, the superintendent shall, not more than 21 days after receipt of the petition, transmit the petition, supporting documentation and his or her recommendation to the Commissioner. The superintendent shall transmit with his or her recommendation to the Commissioner:
- (a) the medical parole plan developed by the petitioner;
 - (b) the written notarized diagnosis by a physician licensed to practice medicine under M.G.L. c. 112, § 2, previously submitted by the petitioner to the superintendent;
 - (c) 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
 - (d) the superintendent's 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.
- (8) If the petitioner's medical parole plan for the prisoner 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.

17.04: Multidisciplinary Review Team

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

- (1) Confirmation of the written diagnosis of terminal illness and/or permanent incapacitation as determined by the Department's health service provider, and a determination as to whether the prisoner suffers from a debilitating condition as set forth in 501 CMR 17.02;
- (2) The proposed course of treatment as provided in the medical parole plan submitted by the petitioner;
- (3) The proposed site for treatment and post-treatment care as submitted by the petitioner;
- (4) Documentation that the medical providers identified by the petitioner are qualified to provide the medical services identified in the medical parole plan and are prepared to provide such services;
- (5) The financial program in place to cover the cost of the medical parole plan for the duration of the medical parole, as submitted by the petitioner, 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
- (6) 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.

17.05: Risk for Violence Assessment

The superintendent's risk for violence assessment required by 501 CMR 17.03(7)(d) shall take into consideration:

- (1) 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);
- (2) The prisoner's current housing situation (*e.g.*, placement in general population, institutional infirmary, Lemuel Shattuck Hospital or outside hospital);
- (3) Clinical management of the prisoner's terminal illness/permanent incapacitation;
- (4) Assessment for mobility, gait and balance, specifically, whether the prisoner is bedridden, wheelchair-bound, uses a walker, or can walk with assistance;
- (5) The medically prescribed and required durable medical equipment or other assistive devices for the prisoner 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;
- (6) The prisoner's ability to manage Activities of Daily Living (ADL);
- (7) Psychological assessment;
- (8) Advanced directives/DNR; and
- (9) The prisoner's height, weight, ability to eat or if the prisoner is fed intravenously.

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17.06: Request for Medical Parole for Prisoners Committed to the Custody of a County Correctional Facility

(1) 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.

(2) The Sheriff, with authority over a county correctional facility, shall consider a prisoner for medical parole upon receipt of a written petition submitted by:

- (a) the prisoner;
- (b) the prisoner's attorney;
- (c) the prisoner's next of kin;
- (d) a medical provider of the county correctional facility; or
- (e) a member of the Sheriff Department's staff.

(3) The petition shall be in writing and submitted on a form made available by the Sheriff's Department for this purpose. The petition shall be accompanied by:

- (a) a medical parole plan developed for the prisoner by the petitioner and submitted in accordance with the requirements of 501 CMR 17.06(4);
- (b) a notarized written diagnosis by a licensed physician or a medical provider utilized by the Sheriff's Department;
- (c) a release form provided by the Sheriff's Department and signed by the prisoner to permit copies of the petition and all supporting documents to be provided to other criminal justice agencies, the appropriate district attorney and to the victim or the victim's family. Said notifications shall remain the responsibility of the Department of Correction; and
- (d) a release form provided by the Sheriff's Department and signed by the prisoner to permit the Sheriff's Department, the Department of Correction and the Parole Board to assess the petitioner's medical parole plan for the prisoner.

If the prisoner is not competent to sign the release forms, his or her medical guardian is required to sign the release forms on the prisoner's behalf.

(4) The medical parole plan required by 501 CMR 17.06(3) shall be developed by the petitioner and shall include specific information as to:

- (a) the proposed course of medical treatment following any release on medical parole;
- (b) 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);
- (c) availability of medical care and written documentation that medical providers qualified to provide the care proposed are prepared to provide the services required; and
- (d) 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.

(5) Incomplete petitions shall be returned to the petitioner by the Sheriff for resubmission of the required information and documentation. Incomplete petitions shall not be transmitted to the Commissioner by the Sheriff. A petition shall be considered incomplete when one or more of the following applies:

- (a) the petition is not submitted on the form provided by the Sheriff's Department for this purpose;
- (b) the petition is submitted without a medical parole plan;
- (c) the petition is submitted with a medical parole plan that does not include the specific information required by 501 CMR 17.03(4) or that was developed by any person other than the petitioner;
- (d) the petition is submitted without a notarized written diagnosis by a licensed physician or a medical provider of the house of correction or jail;
- (e) the petition is submitted without a release form provided by the Sheriff's Department and signed by the prisoner, or the prisoner's medical guardian if the prisoner is incompetent, to permit copies of the petition and all supporting documents to be provided to other criminal justice agencies, the appropriate district attorney and to the victim or the victim's family. Said notifications shall remain the responsibility of the Department of Correction;

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- (f) the petition is submitted without a release form provided by the Sheriff's Department and signed by the prisoner, or the prisoner's medical guardian if the prisoner is incompetent, to permit the Sheriff's Department, the Department of Correction and the Parole Board to assess the petitioner's medical parole plan for the prisoner.
- (6) Petitions must be submitted to the Sheriff with authority over the county correctional facility where the prisoner is currently incarcerated. A petition submitted directly to the Department of Correction or to any person other than the Sheriff with authority over the correctional facility where the prisoner is currently incarcerated shall not be forwarded to the Commissioner and shall be returned to the petitioner.
- (7) Properly submitted petitions for medical parole shall be reviewed by the Sheriff with authority over the county correctional facility where the prisoner is currently incarcerated. The Sheriff shall develop a recommendation as to the release of the prisoner on medical parole. Whether or not the Sheriff recommends in favor of medical parole, the Sheriff shall, not more than 21 days after receipt of the petition, transmit the petition, supporting documentation and the Sheriff's recommendation to the Commissioner. The Sheriff shall transmit with the recommendation to the Commissioner:
- (a) the medical parole plan developed by the petitioner for the prisoner;
 - (b) the notarized written diagnosis by a physician licensed to practice medicine under M.G.L. c. 112, § 2 previously submitted by the petitioner to the Sheriff;
 - (c) an updated clinical review of the prisoner by the Sheriff Department's health service provider, and any supplemental medical diagnosis and/or records, which the Sheriff deems relevant; and
 - (d) 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/CMJ assessment tool and/or COMPAS, as well as risk level for classification evaluation purposes. The Sheriff's risk for violence assessment shall take into consideration all the factors listed in 501 CMR 17.05.
- (8) Petitions transmitted by the Sheriff to the Commissioner that are not in conformity with the requirements of 501 CMR 17.06 shall be considered incomplete by the Commissioner and shall be returned to the Sheriff for resubmission of the required information and documentation.
- (9) 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.

17.07: Notification to District Attorneys and Victims/Victims' Families

- (1) Upon receipt of the medical parole petition, supporting documentation and recommendation of the superintendent or Sheriff where the prisoner is currently incarcerated, the Commissioner shall notify the following parties, in writing, that the prisoner is being considered for medical parole:
- (a) the district attorney for the jurisdiction where the offense resulting in the prisoner being committed to the correctional facility occurred;
 - (b) the prisoner;
 - (c) the person who petitioned for medical parole, if not the prisoner; and
 - (d) if applicable under M.G.L. c. 258B, the victim or the victim's family entitled to receive notification pursuant to M.G.L. c. 6, § 178A. At the Commissioner's direction, notification of the victim or the victim's family may take place through the Department's Office of Victim Services.
- (2) Any party who receives notice under 501 CMR 17.07 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.

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- (3) Following their receipt of the notice from the Commissioner, the district attorney and victim or victim's family may, upon request, receive a copy of the medical parole petition, medical parole plan, and all supporting documents, except for the recommendation of the Superintendent or Sheriff to the Commissioner. Nor shall the recommendation of the superintendent or Sheriff to the Commissioner be provided to the prisoner or petitioner, if not the prisoner.

17.08: Hearings

The Commissioner, in his or her discretion, may conduct a hearing on the medical parole petition pursuant to 501 CMR 17.07. The following procedures shall apply to any such hearing:

- (1) The hearing shall be closed to the public and to the media.
- (2) The Commissioner shall determine who may attend the hearing. Attendees may include, but are not limited to:
 - (a) the prisoner;
 - (b) the person who petitioned for medical parole, if not the prisoner;
 - (c) an attorney for the prisoner or petitioner;
 - (d) 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;
 - (e) the victim and/or the victim's family, if applicable under M.G.L. c. 258B; and
 - (f) such other Department staff as designated by the Commissioner.
- (3) 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.
- (4) Persons who give oral testimony at the hearing shall testify under oath.
- (5) The hearing shall be recorded in a manner to allow a written transcript of the hearing to be produced if necessary.
- (6) 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.
- (7) The Commissioner shall not be bound by the laws of evidence observed by the courts of the Commonwealth.

17.09: Referral to the Parole Board

- (1) If it appears to the Commissioner that a decision to release the prisoner on medical parole is likely, the Commissioner shall refer the prisoner's entire medical parole petition, including all supporting documents and signed release forms, to the Parole Board to investigate and report on the suitability of the proposed place of residence set forth in the petitioner's medical parole plan for the prisoner and to set all appropriate terms and conditions for medical parole.
- (2) The Commissioner shall make this referral to the Parole Board within 30 days after receiving the superintendent's or Sheriff's recommendation and supporting documents. The referral shall be directed to the Institutional Parole Officer/Transitional Parole Officer where the prisoner is held.
- (3) Each medical parole petition referred to the Parole Board by the Commissioner shall include the following:
 - (a) the medical parole plan developed by the petitioner (including the home plan proposed for the prisoner by the petitioner);

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- (b) the notarized written diagnosis by a licensed physician previously submitted by the petitioner to the superintendent or Sheriff;
- (c) the updated clinical review of the prisoner by the Department's or Sheriff's health service provider, respectively;
- (d) a release form provided by the Department or Sheriff, respectively, and signed by the petitioner, or the petitioner's medical guardian if the petitioner is incompetent, to permit copies of the petition and all supporting documents to be provided to other criminal justice agencies, the appropriate district attorney and to the victim or the victim's family;
- (e) a release form provided by the Department or Sheriff, respectively, and signed by the petitioner, or the petitioner's medical guardian if the petitioner is incompetent, to permit the Department and the Parole Board to assess the petitioner's medical parole plan for the prisoner; and
- (f) a release form provided by the Parole Board and signed by the petitioner, or the petitioner's medical guardian if the petitioner is incompetent, to permit the exchange of medical and criminal history (CORI) information with treatment provider(s) and/or home sponsors that will remain valid for the duration of the petitioner's supervision by the Parole Board if medical parole is granted.

(4) The Parole Board shall verify suitability of the proposed place of residence as set forth in the medical parole plan within 15 days of receipt of referral from the Commissioner, conduct a risk/needs assessment, and set all appropriate terms and conditions of release. Such required terms and conditions may include, but not be limited to, the setting or waiving of any work requirements for the prisoner; a determination in the parole officer's discretion whether electronic monitoring is necessary; supervision for drugs and alcohol as necessary; the requirement that the prisoner report to his or her assigned Field Parole Officer on the day of release or that the Parole Officer visit him or her; establishment of any no contact or association requirements with the victim's family and/or any witnesses for the Commonwealth; the prisoner's execution of all medical release forms on a continuing basis; and the requirement that the prisoner make himself or herself available for intake and follow the treatment recommendations of the medical providers.

17.10: Procedure for Verifying Proposed Residence and Setting Terms and Conditions of Release

(1) Upon the Commissioner's referral of a petition for medical parole as set forth in 501 CMR 17.09, the Institutional Parole Officer/Transitional Parole Officer for the institution where the prisoner is held will conduct a risk/needs assessment.

(2) Simultaneously upon receipt of a referral of a petition for medical parole release from the Commissioner, the Institutional Parole Officer/Transitional Parole Officer shall forward said petition to the Field Services Division of the Parole Board. A Field Parole Officer will be assigned to verify suitability of the prisoner's proposed place of residence. All proposed residences will be verified including, but not limited to, inpatient treatment facilities, private residences and hospice care. The assigned Field Parole Officer will make efforts to confirm availability of bed space, evaluate the suitability of the proposed placement environment for supervision purposes, and determine whether the medical parole plan is consistent with the medical treatment needs of the prisoner, as stated in the petition.

(3) Upon completion of the risk/needs assessment by the Institutional Parole Officer/Transitional Parole Officer and verification of the proposed place of residence by the assigned Field Parole Officer, the Institutional Parole Officer/Transitional Parole Officer shall forward the petition to the Parole Board with the completed risk/needs assessment and any and all collateral information utilized during the assessment including, but not limited to, police reports and the prisoner's Board of Probation record, to set conditions of medical parole that will be effective through the date the prisoner's sentence will expire. Said conditions are contingent upon the final release determination by the Commissioner.

(4) The Institutional Parole Officer/Transitional Parole Officer shall forward verification of the prisoner's proposed plan of residence, setting of terms and conditions, and contingent Parole Board vote to the Commissioner for a final determination on the petition for medical parole.

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(5) Upon a favorable determination on the petition by the Commissioner, the assigned Field Parole Officer shall approve and finalize the home plan. Following approval of the home plan, the Institutional Parole Officer/Transitional Parole Officer at the institution where the prisoner is held will generate a Medical Release Permit which shall include the Parole Board's terms and conditions of medical parole. The Institutional Parole Officer/Transitional Parole Officer will notify the Field Parole Officer of the scheduled date of release of the prisoner on medical parole by the Commissioner.

(6) As a prisoner's release pursuant to M.G.L. c. 127, § 119A is a decision of the Commissioner of the Department of Correction, all notifications to victims and victims' families and district attorneys concerning receipt of a medical parole petition, decision regarding medical parole or actual release date will be made by the Department, pursuant to 501 CMR 17.07 and Department policy. A Victim Services Coordinator at the Parole Board will contact victims and victims' families to provide notification of terms and conditions of release once said terms and conditions are set by the Parole Board.

17.11: Review of Medical Parole Eligibility

The Commissioner shall issue a written decision not later than 45 days after receipt of the superintendent's or Sheriff's recommendation and supporting documentation. 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. Said conditions include, but are not limited to, enrollment in MassHealth, signing all necessary release forms, and registration with the Sex Offender Registry Board, where required. The conditions established by the Commissioner pursuant to 501 CMR 17.00 must be satisfied prior to the prisoner's release from custody and are unrelated to the terms and conditions of supervision imposed by the Parole Board pursuant to 501 CMR 17.13, which take effect at the moment of the petitioner's release from custody. A copy of the Commissioner's written decision shall be provided to the individuals entitled to notice as set forth in 501 CMR 17.07.

17.12: Notices

Not less than 24 hours before 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 scheduled release:

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

17.13: Parole Board Jurisdiction, Supervision, and Control

(1) A prisoner granted release under 501 CMR 17.13 shall be under the jurisdiction, supervision and control of the Parole Board, as if the prisoner has been paroled pursuant to M.G.L. c. 127, § 130.

(2) 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. The Parole Board may revise, alter or amend the terms and conditions of a medical parole at any time.

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- (3) A prisoner granted medical parole will be supervised in accordance with Parole Board policy. In the event that the conditions set by the Parole Board are inconsistent with existing Field Policies or Standard Operating Procedures concerning special conditions, the conditions for medical parole set by the Parole Board shall supersede those policies or procedures.
- (4) A prisoner granted medical parole will not see the Parole Board for a discretionary parole release hearing. A prisoner granted medical parole will only go before the Parole Board for a hearing in the event of revocation.
- (5) If a Field Parole Officer receives credible information that the prisoner 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 under M.G.L. c. 127, § 119A, the Field Parole Officer shall obtain a warrant for custody and pursue revocation proceedings. If the Parole Board determines that the prisoner violated a condition of medical parole or the terminal illness or permanent incapacitation has improved to the extent that the prisoner would no longer be eligible for medical parole, the prisoner shall resume serving the balance of the sentence with credit given only for the duration of the medical parole that was served in compliance with all terms and conditions of medical parole. Revocation of a prisoner's medical parole due to a change in medical condition shall not preclude eligibility for medical parole in the future or for another form of release permitted by law.

17.14: Legal Challenges to Medical Parole Decisions

- (1) 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. The Department will provide a copy of the administrative record upon request from the petitioner, within 15 business days of receipt of the request.
- (2) 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.
- (3) A decision by the court pursuant to 501 CMR 17.14 shall not preclude a prisoner's eligibility for medical parole in the future.
- (4) No subsequent petitions may be submitted following the Commissioner's denial of medical parole unless the prisoner experiences a significant and material decline in medical condition. Should such a decline occur, the Commissioner may simply reconsider his or her previous decision on the petition without requiring a new petition to be submitted.

17.15: Reporting

- (1) The Commissioner and the Secretary shall file an annual report not later than March 1st 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 parolee;
 - (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.

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

17.16: Severability

If any article, section, subsection, clause, or phrase of 501 CMR 17.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Executive Office of Public Safety and Security, the Department of Correction, or the Parole Board, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause, or phrase of 501 CMR 17.00.

REGULATORY AUTHORITY

501 CMR 17.00: M.G.L. c. 127, § 119A