

California provides compassionate release to eligible incarcerated individuals with serious medical conditions through **Medical Parole**¹ and **Recall of Sentence**² and to eligible individuals age 60 and older through **Elderly Parole**.³

MEDICAL PAROLE

I. ELIGIBILITY

Medical Condition – To be eligible for Medical Parole, an incarcerated individual must be permanently medically incapacitated, with a medical condition that results in a permanent inability to perform activities of basic daily living and a need for 24-hour care.⁴

- Activities of daily living include breathing, eating, bathing, dressing, transferring, toileting, use of arms, and physical ambulation.⁵
- The individual's incapacitation must not have existed at the time of sentencing.⁶

Exclusions – An incarcerated individual will not be considered for Medical Parole if sentenced to death or life in prison without the possibility of parole;⁷ serving a sentence for which Medical Parole is prohibited;⁸ or serving a sentence for first-degree murder in which the victim was a peace officer.⁹

II. APPLICATION/REFERRAL

Identification/Referrals – Primary care physicians whom the Department of Corrections and Rehabilitation (Department) employs must identify individuals they believe meet the Medical Parole medical criteria and submit recommendations for consideration to the appropriate Chief Medical Officer for referrals to the California Board of Parole Hearings (Board).¹⁰

Requests for Consideration – An incarcerated individual or the individual's family member, attorney, or other authorized person may also request consideration for Medical Parole by contacting the institution's or Department's Chief Medical Officer/Head Physician.¹¹

III. DOCUMENTATION AND ASSESSMENT

Decision to Refer to Board: Chief Medical Officer

- Identification/Referrals – Within 30 days of receiving a primary care physician's recommendation that an individual be considered for Medical Parole, the Chief

Medical Officer reviews the completed *Medical Parole Form* and any additional documentation and makes a decision regarding referral to the Board.¹²

- When the Chief Medical Officer **does not agree** with the primary care physician's recommendation, the Medical Parole form is returned within three working days to the primary care physician, noting the reasons for the denial.¹³ The Chief Medical Officer is also responsible for sending a written notification to the incarcerated individual within 30 working days regarding the reason for the denial.¹⁴
- If the Chief Medical Officer **agrees** with the primary care physician's recommendation, the individual's *Medical Parole Form* and case are referred.¹⁵ Note that the Medical Parole statute says that the case is referred to the Board, but the regulations say that it is sent within three working days to the Classification and Parole (C&P) Representative.¹⁶
- Requests from the Incarcerated Individual or Other Authorized Person – Within 30 days of receiving a request for Medical Parole consideration from an incarcerated individual, family member, attorney, or other authorized person, the institution's Chief Medical Officer consults with the primary care physician to determine whether the individual meets the Medical Parole medical criteria.¹⁷
 - If the Chief Medical Officer does not believe that the incarcerated individual meets the medical criteria, the individual or other authorized person is given a written explanation of the reasons for denying the request.¹⁸
 - If the Chief Medical Officer decides the incarcerated individual meets the medical criteria, the case is moved forward.¹⁹ As noted above, the Medical Parole statute says that the case is referred to the Board at this point, but the regulations say that it simply moves on to the C&P Representative.²⁰

Department Processing – Within 30 working days of the Chief Medical Officer's decision, the incarcerated individual must be referred to the Board for Medical Parole consideration.²¹ All of the following tasks must be completed by the Department during that 30-day period, with the responsible office generally having three to eight working days to complete the task:

- **Statutory Eligibility: C&P Representative** – The C&P Representative reviews the incarcerated individual's file to determine statutory eligibility for Medical Parole.²² If the person is not eligible, the C&P Representative notes the reason on the *Medical Parole Form* and returns it to the Chief Medical Officer, who then notifies the individual (or the individual's designee) in writing of the reasons for the denial.²³ If the individual **meets** the statutory requirements,

the C&P Representative returns the *Medical Parole Form* to the Chief Medical Officer and requests an evaluation report from the individual's caseworker.²⁴

- **Evaluation Report: Caseworker** – The incarcerated individual's caseworker completes an evaluation report and submits it to the C&P Representative.²⁵ The report must include details of the person's criminal history, institutional adjustment, mental health status, risk assessment score, and institutional staff recommendations.²⁶
- **Review: C&P Representative** – The C&P Representative reviews the evaluation report and attachments and forwards all of the information to the Warden (or the Warden's designee).²⁷
- **Review: Warden** – The Warden signs and forwards the original evaluation report and attachments to the Classification Services Unit.²⁸
- **Placement: Prison Health Care Services** – After the Chief Medical Officer receives the evaluation report, the *Medical Parole Form* and all the relevant documentation are forwarded to the designated California Prison Health Care Services office. This office identifies a suitable placement for the individual, documents the required placement plan information, and forwards everything to the Division of Adult Parole Operations Re-Entry Unit.²⁹
- **Placement Plan Review: Division of Adult Parole Operations Re-Entry Unit** – The Re-Entry Unit forwards the *Medical Parole Form* and all attachments to the appropriate parole unit, where an assigned parole agent reviews the recommended placement. The agent documents an assessment of the plan and forwards it to the designated Prison Health Care Services staff, noting approval or disapproval of the proposed placement and Medical Parole conditions. A copy is also forwarded to the Classification Services Unit.³⁰
 - If the agent does not approve the placement, the reasons are documented on the *Medical Parole Form*, and it is sent back to the Prison Health Care Services office to consider an alternative placement.³¹
- **Review: Classification Services Unit** – The Classification Services Unit reviews the *Medical Parole Form*, the evaluation report, and all other related documents to make sure they are complete and forwards everything to the Board.³²

IV. DECISION-MAKING PROCESS

Decision-Maker – The California Board of Parole Hearings makes the final decision whether to release an incarcerated individual on Medical Parole.³³

- Upon receiving a recommendation from an institution’s Chief Medical Officer that an individual be granted Medical Parole, the Board makes an independent judgment regarding whether the conditions under which the person would be released would pose a reasonable threat to public safety.³⁴

Notice – The Department must provide notification of an individual’s upcoming Medical Parole hearing to the county of conviction (and, if different, the proposed county of release) at least 30 days “or as soon as feasible” prior to the date of the hearing.³⁵

Hearings – Board panels, comprised of two members, conduct the Medical Parole hearings.³⁶ If there is a tie vote, the matter is referred to the full Board for a decision.³⁷ Medical Parole hearings may be heard “in absentia,” meaning that the incarcerated individual does not have to be present.³⁸

Conditions – The Board and the Division of Adult Parole Operations have the authority to impose “reasonable conditions” on individuals the Board releases on Medical Parole,³⁹ including the requirement that they be electronically monitored.⁴⁰ In addition, individuals on Medical Parole may be examined periodically by a Board-selected physician, who then submits a report and diagnosis to the Board.⁴¹

V. POST-DECISION

Prerelease Process – Once the Board approves an individual’s Medical Parole, it notifies the C&P Representative to process the Medical Parole “packet,” forward it to the parole unit that will be supervising the person, and complete the required notifications.⁴²

- **Notice of Release** – The Department provides notification of the individual’s release to the county where the person was convicted (and, if different, the proposed county of release) at least 30 days “or as soon as feasible” prior to the scheduled release.⁴³
- **Medical Information** – Upon an individual’s release, the Department is directed to provide a discharge medical summary, full medical records, and medications. After release, any additional records are sent to the individual’s forwarding address.⁴⁴
- **Public Benefits** – The Department must ensure that individuals approved for Medical Parole have applied for any federal entitlement programs (such as Social Security and Medicaid) for which they are eligible.⁴⁵

Effect of Medical Parole Request on Other Parole Eligibility – Medical Parole consideration does not affect eligibility for any other form of parole or release provided by California law.⁴⁶

Supervision – Individuals are assigned to parole agents who ensure compliance with all general and “special” conditions of Medical Parole.⁴⁷ If the Board imposes a special condition, only the Board may remove or modify the condition.⁴⁸

Denials and Appeal Rights – The statute and regulation do not provide information on appealing Medical Parole decisions. However, the Board of Parole Hearings Medical Parole webpage states that if Medical Parole is denied, the individual, a family member, an attorney, or prison health care staff may refer the individual to the Board again after six months.⁴⁹

In addition, the San Quentin Prison Law Office publication *Compassionate Release and Medical Parole*⁵⁰ includes guidelines for challenging delays or denials:

- If a prison doctor delays or refuses to determine whether an incarcerated individual has a qualifying medical condition or if it has been decided that the person does not meet the medical eligibility criteria, the incarcerated individual can file a “health care grievance” within 30 days after learning about the delay or decision.⁵¹
- If an individual is referred for a Medical Parole hearing and the Board (1) doesn’t schedule a timely hearing or (2) denies parole, the Prison Law Office advises not to file an administrative appeal because the Board does not have a general administrative appeal process. However, individuals denied Medical Parole by the Board may be able to file a state court *habeas corpus* petition challenging the denial.⁵²

Revocation/Termination – If the Board determines that, based on a physician’s examination, the individual’s medical condition has improved to the extent that the Medical Parole criteria are no longer met, it will order the individual returned to Department custody.⁵³ In addition, if the individual’s parole agent determines that the person is a threat to self, another person, or to public safety or there has been a significant change in the individual’s conditions of release, the agent can make a recommendation to return the person to custody.⁵⁴

- An individual serving a **determinate** sentence who is placed on Medical Parole prior to the earliest possible release dates remains on Medical Parole until that release date, at which point any normal parole or Post-Release Community Supervision starts.⁵⁵
- An individual serving an **indeterminate** sentence who is placed on Medical Parole prior to the “minimum eligible” parole date becomes eligible for consideration under the regular parole rules once the minimum eligible parole date is reached.⁵⁶

VI. REPORTING/STATISTICS

The California Board of Parole Hearings reported the following statistics:

- In 2019, the Board approved 18 requests for Medical Parole.⁵⁷
- In 2020, the Board approved 73 requests for Medical Parole.⁵⁸

RECALL OF SENTENCE

On the recommendation of the Secretary of the California Department of Corrections and Rehabilitation (Department), a sentencing court may “recall” the sentence of an eligible incarcerated individual who is terminally ill or permanently incapacitated.⁵⁹

I. ELIGIBILITY

Medical Condition – To be eligible for Recall of Sentence, an individual must meet one of the following criteria:

- Terminally ill, meaning the individual has an incurable condition caused by an illness or disease that a Department physician has determined will produce death within 12 months;⁶⁰ or
- Permanently incapacitated, with a medical condition that renders the individual permanently unable to perform “activities of basic daily living” and results in the person requiring 24-hour total care.⁶¹
 - The condition causing the physical incapacitation must not have existed at the time of the individual’s original sentencing.⁶²
 - Examples of medical conditions that meet the criteria include a coma, persistent vegetative state, brain death, ventilator-dependency, and loss of control of muscular or neurological function.⁶³

Additional Eligibility Criteria – The conditions under which the individual would be released or receive treatment must not pose a threat to public safety.⁶⁴

Exclusions – Individuals who are sentenced to death or who are serving a life sentence without the possibility of parole⁶⁵ are not eligible for a Recall of Sentence.

II. APPLICATION/REFERRAL

Department Identification – Any Department physician who determines an individual has 12 months or less to live can initiate the Recall of Sentence process by notifying the Chief Medical Officer.⁶⁶ If in agreement with the prognosis, the Chief Medical Officer notifies the Warden.⁶⁷

- The California Penal Code requires the Department Secretary to issue a directive to all medical and correctional staff that (1) details the guidelines and procedures for initiating the recall and resentencing procedures; (2) clearly states any incarcerated individual with a prognosis of 12 months or less to live is eligible for recall and resentencing consideration; and (3) instructs the staff to initiate those procedures upon such a prognosis.⁶⁸

Individual/Family Request – The incarcerated individual, a family member, or another “designee” may also independently request consideration for a Recall of Sentence by contacting the Department Secretary or the institution’s Chief Medical Officer or Chief Medical Executive.⁶⁹

III. DOCUMENTATION AND ASSESSMENT

Within 48 hours of receiving notification that an incarcerated individual may be eligible for Recall of Sentence, the Warden (or the Warden’s representative) must (1) notify the incarcerated individual of the recall and resentencing procedures and (2) arrange for the individual to designate a family member or other person to be notified about the Recall of Sentence process and receive updates about the individual’s medical condition and prognosis.⁷⁰ The Warden must provide the individual and the family member or other contact with updated information throughout the recall and resentencing process regarding the person’s medical condition and status of the proceedings.⁷¹

Documentation: Physician – The individual’s physician documents the illness, functioning (including any limitations in performing activities of daily living), ambulatory status, the reason why the person has 12 months or less to live or is permanently medically incapacitated, and the individual’s desire to participate in the Recall of Sentence process.⁷²

Review and Approval: Institution and Department Medical Staff – The institution’s Chief Medical Officer or Chief Medical Executive, the Deputy Medical Executive, and the Statewide Chief Medical Executive for the California Prison Health Care Services must all review and sign off on the physician’s prognosis.⁷³

- They have five working days to review and approve the physician’s prognosis. Once the Statewide Chief Medical Executive has completed the final approval, the appropriate signed “Medical Chrono” form (*Department Form 128-C*) must

be submitted to the individual's Classification and Parole (C&P) Representative within three working days.⁷⁴

- If any of those individuals do not concur with the prognosis, the Recall of Sentence process is terminated.⁷⁵

Review: C&P Representative – The C&P Representative reviews the approval form and the individual's central file⁷⁶ and then submits the *Department Form 128-C* to the appropriate caseworker.⁷⁷

Evaluation Report: Caseworker – The individual's caseworker has five working days to prepare an evaluation report that considers a long list of factors to determine the threat to public safety, if any.⁷⁸ Those factors include the commitment offense, history of criminal activity, mental health status, and whether the court knew of the person's medical condition at the time of sentencing.⁷⁹ The C&P Representative also looks at the individual's post-release plan.⁸⁰ The C&P Representative forwards a final evaluation report to the Warden or Chief Deputy Warden within three working days.⁸¹

Review: Warden/Chief Deputy Warden – The Warden or Chief Deputy Warden reviews and signs the evaluation report and forwards it to the Department Headquarters within three working days, where it is referred to the Secretary (or the Secretary's designee) for review and consideration.⁸²

Recommendation: Secretary – If the Secretary makes a positive recommendation for Recall and the individual is sentenced to a determinate term, the recommendation is referred directly to the sentencing court.⁸³ All recommendations must include the individual's medical evaluations, a post-release plan, and any additional documentation related to the medical condition.⁸⁴

IV. DECISION-MAKING PROCESS

Decision-Maker – The individual's sentencing court makes all decisions regarding a Recall of Sentence.⁸⁵

Decision – Within 10 days of receiving a positive recommendation from the Secretary, the sentencing court must hold a hearing to consider whether the individual's sentence should be recalled.⁸⁶ If possible, the same judge who sentenced the individual should hear the matter.⁸⁷

V. POST-DECISION

Release – If the court approves the Recall application, the Department must release the incarcerated individual within 48 hours of receiving the order unless the person agrees to a longer time period.⁸⁸ If the person agrees to waive the 48-hour release requirement, the Department can ask the sentencing court to include in its order that

release be within 30 calendar days to allow for the coordination of housing and medical needs in the community.⁸⁹

At the time of release, the Warden must ensure that the individual has a discharge medical summary, complete medical records, state identification, post-parole medications, and all personal property.⁹⁰

Denials and Appeals – Denials of a request for Recall of Sentence are not discussed in any detail in the California Penal Code or Department rules. Just as with Medical Parole, the Prison Law Office in San Quentin has published guidelines for challenging actions (or lack of action) at different steps in the process:

- If a prison doctor delays or refuses to determine whether the individual has a qualifying terminal illness or the relevant medical staff determine that the person does not meet the medical criteria, the Prison Law Office says the person should file a health care grievance.⁹¹
- If prison medical staff determine that the individual has a qualifying medical condition but the Department does not process the public safety evaluation in a timely manner or decides not to refer the case to the sentencing court, the individual can file a “regular” administrative grievance.⁹²
- An individual can file a state court petition for a writ of *habeas corpus* challenging the Department decision not to recommend a Recall of Sentence.⁹³

Revocation and Termination – Individuals granted a Recall of Sentence are not returned to custody if their condition improves.⁹⁴

VI. REPORTING/STATISTICS

California law does not require courts to report on how many sentences have been recalled for medical reasons. FAMM obtained the following statistics:

- 2019: Courts granted 17 Recall of Sentence motions and denied four.
- 2020: Courts granted 15 motions and denied four.⁹⁵

ELDERLY PAROLE

The California Board of Parole Hearings (Board) can grant Elderly Parole to older incarcerated individuals who have served at least 20 years in prison.⁹⁶

I. ELIGIBILITY

Age and Time Served – To be eligible for Elderly Parole, an individual must be age 50

or older and have served a minimum of 20 years of continuous incarceration on the current sentence.⁹⁷

Exclusions – Individuals are not eligible for Elderly Parole if they were sentenced under California’s “three strikes” law, to death or life without parole,⁹⁸ or for first-degree murder of a peace officer.⁹⁹

II. APPLICATION/REFERRAL

The law notes that the Board must consider an individual’s eligibility for Elderly Parole when scheduling a parole suitability hearing date or considering hearing requests under other state parole provisions.¹⁰⁰ There is no additional information on applications or referrals for Elderly Parole.

III. DOCUMENTATION AND ASSESSMENT

There is no detailed information in the Elderly Parole law about the documentation that is needed and the assessment process leading up to a referral to the Board.

IV. DECISION-MAKING PROCESS

Decision-Maker – The California Board of Parole Hearings makes all final decisions on Elderly Parole requests.

Decision – The Board holds a “parole suitability” hearing for individuals who meet the age and time-served criteria.¹⁰¹ In making its decisions, the Board considers whether an individual’s age, time served, and diminished physical condition have reduced the risk for future violence.¹⁰² If the Board decides an individual is suitable for parole under the Elderly Parole guidelines, it will grant the person’s release.¹⁰³ If the Board does not grant Elderly Parole, it will set a date and time for a subsequent hearing.¹⁰⁴

V. POST-DECISION

The California Board of Parole Hearings states that if an individual is granted Elderly Parole, the person is eligible for release immediately after the decision is final, which can take up to five months.¹⁰⁵ Decisions granting Elderly Parole are subject to the Board’s decision review process and the Governor’s review process.¹⁰⁶

VI. REPORTING/STATISTICS

The California Board of Parole Hearings reported that in 2019 it approved 268 requests for Elderly Parole,¹⁰⁷ and in 2020 it approved 317 requests for Elderly Parole.¹⁰⁸

CALIFORNIA COMPASSIONATE RELEASE

PRIMARY LEGAL SOURCES

MEDICAL PAROLE

Statute

California Penal Code § 3550 (2021), available through the California State Legislature, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=2.3.&part=3.&chapter=&article=.

Regulations

California Code of Regulations, Title 15, §§ 3359.1 through 3359.6, available through the California Office of Administrative Law, [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IF36C1D50D47311DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IF36C1D50D47311DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

Agency Policy/Publications

California Department of Corrections and Rehabilitation, Board of Parole, Medical Parole Hearings webpage, <https://www.cdcr.ca.gov/bph/mpb-overview/>.

California Correctional Health Care Services, CCHCS Care Guide: Palliative Care (May 2021), <https://cchcs.ca.gov/wp-content/uploads/sites/60/CG/Palliative-Care-Guide.pdf>.

RECALL OF SENTENCE

Statute

California Penal Code § 1170 (e) (2021), available through the California State Legislature, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=2.&chapter=4.5.&article=1.

Regulations

California Code of Regulations, Title 15, §§ 3076 through 3076.5, available through the California Office of Administrative Law, [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I99DEC56206634E188F1E3B9E4EBE7661&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I99DEC56206634E188F1E3B9E4EBE7661&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

Agency Policy/Publications

California Correctional Health Care Services, CCHCS Care Guide: Palliative Care (May 2021), <https://cchcs.ca.gov/wp-content/uploads/sites/60/CG/Palliative-Care-Guide.pdf>.

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CALIFORNIA COMPASSIONATE RELEASE **PRIMARY LEGAL SOURCES**

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ELDERLY PAROLE

Statute

California Penal Code § 3055, available through the California State Legislature, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=1.&art=3.&chapter=8.&article=3.

Agency Policy/Publications

California Department of Corrections and Rehabilitation, Board of Parole, Elderly Parole Hearings webpage, <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/>.

NOTES

* *Id.* means see prior note.

¹ Cal. Penal Code § 3550; Cal. Code Regs. tit. 15, §§ 3359.1 through 3359.6.

² Cal. Penal Code § 1170 (e); Cal. Code Regs. tit. 15, §§ 3076 and 3076.3 through 3076.5. Note that the Department and some news reports sometimes refer to Recall of Sentence as Compassionate Release.

³ Cal. Penal Code § 3055; California Board of Parole, Elderly Parole Hearings webpage at <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/>.

⁴ Cal. Penal Code § 3550 (a); Cal. Code Regs. tit. 15, § 3359.1 (a).

⁵ Cal. Code Regs. tit. 15, § 3359.1 (a) (1).

⁶ Cal. Penal Code § 3550 (a); Cal. Code Regs. tit. 15, § 3359.1 (a) (2).

⁷ Cal. Penal Code § 3550 (b) (1); Cal. Code Regs. tit. 15, §§ 3359.1 (a) (3) and (4).

⁸ Cal. Penal Code § 3550 (b) (2).

⁹ Cal. Penal Code § 3550 (b) (3). “Peace officer” includes any sheriff, undersheriff, or deputy sheriff; chief of police or chief, director, or chief executive officer of a municipal public safety agency that performs police functions; any marshal or deputy marshal of a superior court or county; any port warden or port police officer; or any inspector or investigator in the office of a district attorney. *Id.*

¹⁰ Cal. Penal Code § 3550 (c); Cal. Code Regs. tit. 15, §§ 3359.1 (b) (1) and 3359.2 (a), referencing Department Form 7478-EMP, Medical Parole. Note that the Medical Parole statute and rules use the terms “Chief Medical Officer,” “head physician,” and “Chief Medical Executive” interchangeably.

¹¹ Cal. Penal Code § 3550 (d); Cal. Code Regs. tit.15, §§ 3359.1 (b) (2) through (b) (4). “Family members” include a legal spouse; registered domestic partner; natural parents; adoptive parents; step-parents or foster parents; grandparents; natural, step, or foster brothers or sisters; natural and adoptive children; grandchildren; and legal stepchildren of the incarcerated individual. Cal. Code Regs. tit.15, §§ 3359.1 (b) (2), referencing Cal. Code Regs. tit.15, § 3000. Note that requests from these individuals will not be considered if the physician has reviewed the incarcerated person’s Medical Parole eligibility within the last 90 days. Cal. Code Regs. tit. 15, § 3359.1 (c).

¹² Cal. Penal Code § 3550 (c); Cal. Code Regs. tit. 15, § 3359.2 (b).

¹³ Cal. Penal Code § 3550 (c); Cal. Code Regs. tit. 15, § 3359.2 (b) (1).

¹⁴ Cal. Code Regs. tit. 15, § 3359.2 (b) (1).

¹⁵ Cal. Penal Code § 3550 (c).

¹⁶ Cal. Code Regs. tit. 15, § 3359.2 (b) (2).

¹⁷ Cal. Penal Code § 3550 (d).

¹⁸ Id.

¹⁹ Id.

²⁰ Cal. Code Regs. tit. 15, § 3359.2 (b) (2).

²¹ Cal. Code Regs. tit. 15, § 3359.1 (a).

²² Cal. Code Regs. tit. 15, § 3359.2 (c).

²³ Id. at (c) (1).

²⁴ Id. at (c) (2).

²⁵ Id. at (d).

²⁶ Id. For a full list of the information the evaluation report must contain, see Cal. Code Regs. Tit. 15, §§ 3359.2 (d) (1) through (d) (15).

²⁷ Id. at (e).

²⁸ Id. at (f).

²⁹ Id. at (g). The placement plan is listed as a requirement in Cal. Penal Code § 3550 (e), which states that the Department must complete a parole plan (including a plan for residency and medical care) for all individuals referred to the Board for Medical Parole consideration.

³⁰ Cal. Code Regs. tit. 15, § 3359.2 (h).

³¹ Id. at (h) (1).

³² Id. at (i).

³³ Cal. Penal Code § 3550 (a); Cal. Code Regs. tit.15, § 3559.1 (a).

³⁴ Cal. Penal Code §§ 3550 (a) and (g); Cal. Code Regs. tit.15, § 3559.1 (d).

³⁵ Cal. Penal Code § 3550 (k).

³⁶ Id. at (f).

³⁷ Id.

³⁸ Cal. Penal Code § 3550 (f); California Department of Corrections and Rehabilitation, Board of Parole Hearings, Medical Parole Hearings webpage, “What to Expect at an Expanded Medical Parole Hearing.”

³⁹ Cal. Penal Code § 3550 (h).

⁴⁰ Id.

⁴¹ Id.

⁴² Cal. Code Regs. tit.15, §§ 3359.3 (a) and (c).

⁴³ Cal. Penal Code § 3550 (k).

⁴⁴ Id. at (i).

⁴⁵ Id.

⁴⁶ Id. at (j). Note that individuals who were sentenced to an indeterminate prison term will continue to have “life parole consideration” hearings. Cal. Code Regs. tit.15, § 3359.4 (b).

⁴⁷ Cal. Code Regs. tit.15, §§ 3359.3 (a) and 3359.5 (b).

⁴⁸ Cal. Code Regs. tit.15, § 3359.5 (b) (5).

⁴⁹ California Department of Corrections and Rehabilitation, Board of Parole Hearings, Medical Parole Hearings webpage, “What to Expect at an Expanded Medical Parole Hearing.”

⁵⁰ Prison Law Office, *Compassionate Release and Medical Parole for People in CDCR Prisons* (2020), <https://prisonlaw.com/wp-content/uploads/2020/12/Comp-Release-Med-Parole-Dec-2020.pdf>. For more information or assistance, see the Prison Law Office website at prisonlaw.com.

⁵¹ Id. at 8.

⁵² Id. at 9.

⁵³ Cal. Penal Code § 3550 (h); Cal. Code Regs. tit.15, § 3359.6 (a) (1).

⁵⁴ Cal. Code Regs. tit.15, § 3359.6 (a) (2).

⁵⁵ Cal. Penal Code § 3550 (h) (1).

⁵⁶ Id. at (h) (2).

⁵⁷ California Board of Parole Hearings, *2019 Report of Significant Events* (Feb. 18, 2020), 9, <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2020/02/BPH-Significant-Events-2019.pdf>.

⁵⁸ California Board of Parole Hearings, *2020 Report of Significant Events* (April 19, 2021), 11 https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2021/04/BPH_2020_Significant_Events.pdf.

⁵⁹ Cal. Penal Code § 1170 (e) (1); Cal. Code Regs. tit.15, § 3076 (b).

⁶⁰ Cal. Penal Code § 1170 (e) (2) (A); Cal. Code Regs. tit. 15, § 3076 (b).

⁶¹ Cal. Penal Code § 1170 (e) (2) (C); Cal. Code Regs. tit. 15, § 3076 (b).

⁶² Cal. Penal Code § 1170 (e) (2) (C).

⁶³ Id.

⁶⁴ Id. at (e) (2) (B).

⁶⁵ Cal. Penal Code § 1170 (e) (12); Cal. Code Regs. tit. 15, § 3076 (c).

⁶⁶ Cal. Penal Code § 1170 (e) (4); Cal. Code Regs. tit. 15, § 3076.4.

⁶⁷ Cal. Penal Code § 1170 (e) (4).

⁶⁸ Id. at (e) (10).

⁶⁹ Cal. Penal Code § 1170 (e) (6); Cal. Code Regs. tit. 15, § 3076.4.

⁷⁰ Cal. Penal Code § 1170 (e) (4); Cal. Code Regs. tit. 15, § 3076.4 (c) (2). If the incarcerated individual is determined to be “mentally unfit,” the Warden or the Warden’s designee must notify the person’s emergency contact and provide the medical information. Id.

⁷¹ Cal. Penal Code § 1170 (e) (5).

⁷² Cal. Code Regs. tit. 15, § 3076.4 (a).

⁷³ Id. at (b).

⁷⁴ Id.

⁷⁵ Id. at (b) (1).

⁷⁶ Id. at (c).

⁷⁷ Id. at (d).

⁷⁸ Id.

⁷⁹ Cal. Code Regs. tit. 15, §§ 3076.3 (a) through (j) and 3076.4 (d) (1) through (13).

⁸⁰ Cal. Code Regs. tit. 15, § 3076.4 (d) (4).

⁸¹ Id. at (e).

⁸² Id. at (f) and (g).

⁸³ Id. at (g) (1).

⁸⁴ Cal. Penal Code § 1170 (e) (7); Cal. Code Regs. tit. 15, § 3076.4 (g) (1).

⁸⁵ Cal. Penal Code § 1170 (e) (1).

⁸⁶ Id. at (e) (3). Note that the California Code of Regulations doesn't say anything about a hearing; it simply says that if the recall and resentencing application is granted, the individual must be released within 48 hours unless a longer time period is agreed to by the incarcerated individual or the court. Cal. Code Regs. tit. 15, § 3076.4 (h).

⁸⁷ Cal. Penal Code § 1170 (e) (8).

⁸⁸ Cal. Penal Code § 1170 (e) (9); Cal. Code Regs. tit. 15, § 3076.4 (h).

⁸⁹ Cal. Code Regs. tit. 15, § 3076.4 (h).

⁹⁰ Cal. Penal Code 1170 (e) (9); Cal. Code Regs. tit. 15, § 3076.4 (j).

⁹¹ Prison Law Office, *Compassionate Release and Medical Parole for People in CDCR Prisons* (2020), 4, <https://prisonlaw.com/wp-content/uploads/2020/12/Comp-Release-Med-Parole-Dec-2020.pdf>.

⁹² Id.

⁹³ Id. For more information on or assistance with appeals, see the Prison Law Office website at prisonlaw.com.

⁹⁴ California Correctional Health Care Services, CCHCS Care Guide: Palliative Care Guide, "Compassionate Release vs. Expanded Medical Parole."

⁹⁵ Riya Desai, "Compassionate Release in California by the Numbers" (August 1, 2022). <https://famm.org/wp-content/uploads/Compassionate-Release-in-California-by-the-Numbers-FINAL.pdf>.

⁹⁶ The California Board of Parole Hearings webpage provides a short history of the Elderly Parole provisions, stating that in 2014, a federal court ordered the state to implement a parole process for individuals age 60 and older who have been incarcerated for at least 25 years. The Elderly Parole eligibility criteria were modified by Assembly Bill 3234, effective January 1, 2021, to cover individuals age 50 and older who have been incarcerated for at least 20 years. See Elderly Parole Hearings at <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/>.

⁹⁷ Cal. Penal Code § 3055 (a). The sentence served can be either determinate (a set length) or indeterminate (life with the possibility of parole). Id.

⁹⁸ Id. at (g).

⁹⁹ Id. at (h).

¹⁰⁰ Id. at (d).

¹⁰¹ Id. at (e), referencing Cal. Penal Code section § 3041.

¹⁰² Id. at (c).

¹⁰³ Id. at (e).

¹⁰⁴ Id. at (f). Note that no Elderly Parole hearing is necessary if the individual is released pursuant to other statutory provisions prior to the date of the hearing.

¹⁰⁵ California Board of Parole Hearings, Elderly Parole Hearings webpage (2021).

¹⁰⁶ Id.

¹⁰⁷ California Board of Parole Hearings, *2019 Report of Significant Events* (Feb. 18, 2020), 1, <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2020/02/BPH-Significant-Events-2019.pdf>.

¹⁰⁸ California Board of Parole Hearings, *2020 Report of Significant Events* (April 19, 2021), 1 https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2021/04/BPH_2020_Significant_Events.pdf.