

North Dakota provides compassionate release to eligible incarcerated individuals who have serious or terminal medical conditions through **Medical Parole**.¹

MEDICAL PAROLE

I. ELIGIBILITY

Medical Condition – To be eligible for Medical Parole, an incarcerated individual must have a serious or terminal medical condition:²

- A “serious” medical condition is defined as an injury, illness, disease, or physiologic or psychological condition or disorder that (1) poses an immediate risk to the individual’s health or life and (2) requires high-risk or highly complex medical intervention or intensive, high-needs, or specialized care.³
 - Examples of serious medical conditions include strokes; heart attacks; aggressive or advanced stage forms of cancer; conditions that require long-term hospitalization, nursing home, or hospice care; mental illness causing the individual to be unable to provide for essential needs and requiring long-term hospitalization, nursing home care, or group home placement.⁴
- A terminal medical condition is defined as a serious medical condition with a prognosis that death is “likely and imminent.”⁵

Exclusions – Any incarcerated individual with a serious or terminal medical condition can apply for Medical Parole. No specific categories of individuals are excluded.⁶

II. APPLICATION/REFERRAL

All requests for Medical Parole must start with a Department of Corrections and Rehabilitation (Department) medical provider. The medical provider then submits the Medical Parole request for review to the North Dakota Parole Board clerk.⁷ There is no additional information from the Department on the application process.

III. DOCUMENTATION AND ASSESSMENT

The Medical Parole request must detail the incarcerated individual’s serious or terminal medical condition as diagnosed by a Department medical provider and include written documentation summarizing the individual’s condition, recommended course of care and treatment, and prognosis.⁸

IV. DECISION-MAKING PROCESS

Decision-Maker – The North Dakota Parole Board is the sole authority for all matters relating to Medical Parole review and action.⁹

Decision Process – After the Parole Board clerk receives a request for Medical Parole, the Board chair is consulted to decide whether to (1) place the case on the next available meeting docket or (2) schedule a “special meeting” to review the case.¹⁰

- Notice – There is nothing in the Parole Board’s rules stating that Medical Parole requests are exempt from the general parole notice requirements, which are as follows:
 - The Parole Board must provide written notice to the district court and appropriate state’s attorney office that it is considering an individual for parole. If the Board schedules a meeting to review whether the person may be released on parole, the notice must include the date and location of the meeting.¹¹
 - The Parole Board must notify registered victims and give them the opportunity to present information in any manner the Board recommends.¹²
- Scheduling – The Parole Board rules do not include any specific, expedited timelines for Medical Parole requests.
- Meetings – The Parole Board rules state that during the course of a special meeting, the Board may (1) interview the individual or (2) conduct a review of the appropriate documents without an interview. Note that granting or not granting an interview does not constitute “a negative recommendation for relief.”¹³
- Additional Information – The general parole statute states that the Parole Board may also employ psychiatrists or specialists for any additional mental or medical examinations it decides are necessary.¹⁴
- Decisions – The Parole Board is directed to record all of its actions and to provide each individual with a written order reflecting its decision.¹⁵ When it denies parole requests, and presumably this includes Medical Parole, the Board must list at least one reason for the denial in the “Order Denying Parole.”¹⁶

Conditions – If the individual is granted Medical Parole, the Parole Board and/or the Department may establish conditions.¹⁷ Neither the relevant statute nor agency rules provide examples of possible conditions for individuals granted Medical Parole.

V. POST-DECISION

Denials and Appeal Rights – All Parole Board decisions on Medical Parole are final.¹⁸

Supervision – Individuals released on Medical Parole are assigned supervising parole officers and must comply with all “reasonable requests” of those officers to assist with rehabilitation and protect the safety of the community.¹⁹

Revocation/Termination – Individuals released on Medical Parole remain under the Parole Board’s jurisdiction until expiration of the maximum term or terms of imprisonment for which the individual was sentenced, less any sentence reduction received.²⁰ If an individual violates any general parole terms or conditions, the Department’s Director may issue a warrant for the person’s arrest.²¹ The general parole revocation procedures do not mention anything specific to individuals released on Medical Parole.²²

VI. REPORTING/STATISTICS

The Parole Board is not required to report on the number of Medical Parole requests it considers or grants and has not published any data on Medical Parole decisions.

- The Parole Board did not respond to FAMM’s request for data on the number of individuals granted Medical Parole in 2019 and 2020.

NORTH DAKOTA COMPASSIONATE RELEASE **PRIMARY LEGAL SOURCES**

MEDICAL PAROLE

Statute

North Dakota Century Code, § 12-59-08 (2019), available through the North Dakota Legislative Assembly, <https://www.legis.nd.gov/cencode/t12c59.pdf>.

Agency Policy/Publications

North Dakota Department of Corrections and Rehabilitation, Policy and Procedures, Policy 1A-13, §§ 3 and 5.E (4) (2018), https://www.docr.nd.gov/sites/www/files/documents/parole_pardon/1A-13%20-%20Parole%20Board%20-%20Rev%2010.9.2018.pdf.

NOTES

* *Id.* means see prior note.

¹ N.D. Cent. Code § 12-59-08; North Dakota Department of Corrections and Rehabilitation Policy (Department Policy) 1A-13, §§ 3 and 5 (E) (4).

² *Id.*

³ Department Policy 1A-13, § 3 (R).

⁴ *Id.*

⁵ *Id.* at § 3 (T).

⁶ N.D. Cent. Code § 12-59-08. The statute specifically states that eligible individuals include those whose sentences are subject to sections 12.1-32-02.1 [Mandatory Prison Terms for Armed Offenders] and 12.1-32-09.1 [Sentencing of Violent Offenders], and those sentenced under subsection 1 of section 12.1-32-01 [Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed].

⁷ Department Policy 1A-13, § 5 (E) (4) (a).

⁸ *Id.*

⁹ N.D. Cent. Code § 12-59-08; DOCR Policy 1A-13, § 5 (E) (4) (a).

¹⁰ Department Policy 1A-13, § 5 (E) (4) (a).

¹¹ N.D. Cent. Code § 12-59-10; Department Policy 1A-13, § 5 (D) (5).

¹² Department Policy 1A-13, § 5 (D) (6).

¹³ *Id.* at § 5 (E) (8).

¹⁴ N.D. Cent. Code § 12-59-06.

¹⁵ Department Policy 1A-13, § 5 (E) (11).

¹⁶ *Id.* at 5 (E) (11) (a).

¹⁷ N.D. Cent. Code § 12-59-07.

¹⁸ Department Policy 1A-13, § 5 (E) (4).

¹⁹ *Id.* at 5 (E) (11) (b).

²⁰ N.D. Cent. Code § 12-59-08.

²¹ N.D. Cent. Code § 12-59-15.

²² *Id.*