

Compassionate Release Report Card • October 2022

# New York

Overall Grade for New York

Total Grade

**69**  
/100

Letter Grade

**D+**

Program Grades

**Medical Parole**

Total Grade

**69/100**

Letter Grade

**D+**

Find all compassionate release resources on FAMM's site →

[famm.org](https://www.famm.org)



# Medical Parole

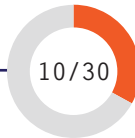
Total Grade

**69** /100

Letter Grade

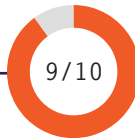
**D+**

## Eligibility Criteria



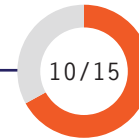
- 5/10** Clearly set out with understandable and measurable standards.
- 3/10** Generous or not unduly restrictive.
- 2/10** No categorical exclusions/everyone is eligible for consideration.
  - x Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

## Procedures



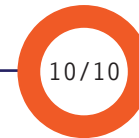
- 5/5** Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.
- 2/5** Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.
  - + Extra credit:** Expedited time frames exist for terminal cases. **+2**

## Engaging the Process



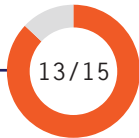
- 5/5** Clinical and other staff can identify potentially eligible individuals and initiate the process.
- 5/5** Incarcerated people, their loved ones, and advocates can initiate the process.
- 0/5** Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

## Release Planning Support



- 5/5** Agencies provide comprehensive release planning.
  - + Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **+5**
- 0/5 UTD\*** Release planning begins early in the process.

## Agency Policy Design



- 5/5** Agency rules exist for all stages of identification, initiation, assessment, and decision-making.
- 3/5** Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.
- 5/5** Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

## Data Collection and Public Reporting



- 5/5** Agencies are obliged to gather, compile, and report release data to legislature.
- 5/5** Reporting is made available to the public via annual reports or other means.



## Right to Counsel and Appeals

**0/5** Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

**+ Extra credit:** Denials are appealable. **+2**

**5/5** Individuals have the right to reapply should conditions change.

**× Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

\* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

## The Numbers

The Board of Parole reported the following information to the legislature:

**2019** The Board of Parole granted Medical Parole to 21 people.

**2020** The Board of Parole granted Medical Parole to 14 people.

## High and Low Marks

### HIGH MARKS

- **Engaging the process** is very open; anyone can begin the Medical Parole application process.
- The Department of Corrections and Community Supervision's and the Board of Parole's **policies** are for the most part thorough and provide clear guidance to reviewers and decision-makers regarding procedures, roles, and standards. The state missed receiving a perfect grade of 15 for the category, however. FAMM deducted points here because the Department policy about discharge planning conflicts with the statute and may result in a delay in release planning. The statute requires the Commissioner of Corrections to provide a discharge plan, but the Department rules state that planning does not begin until the referral to the Board. Individuals without an approved release plan may see their Medical Parole held up, so the inconsistency may lead to unwarranted delays.
- The Board must provide a **comprehensive discharge plan**, but FAMM marked down release planning because, as described above, it may not begin in a timely manner. New York received **extra credit** because release planning includes ensuring the incarcerated individual applies for public benefits.
- New York's Medical Parole received partial extra credit for **expediting the process** for the terminally ill. The Commissioner may fast track Medical Parole referrals for certain people who are terminally ill and who are not serving a sentence for specific violent or sex offenses.
- People for whom the Board denies Medical Parole may **appeal** the denial, and they also have the right to **reapply** for changed circumstances.

### LOW MARK

- New York has extremely limited **eligibility criteria** and numerous exclusions, including some that require, even for the terminally ill, that they have served a certain percentage of their sentence before becoming eligible to apply. If they pass those hurdles, they must be found to be dying from a condition that is so debilitating or incapacitating that they can present no danger to society. New York does not define those terms, making assessment surely challenging. The Board grants Medical Parole to very few people, and that may be due to the strict, narrow criteria.