

Hawaii provides compassionate release to eligible incarcerated individuals with debilitating or terminal medical conditions through its **Medical Release** program.¹

MEDICAL RELEASE

I. ELIGIBILITY

Medical Condition – An incarcerated individual will be considered for Medical Release in four situations. Two are included in the administrative rules for the Hawaii Paroling Authority (HPA):

- The individual has a terminal disease where death is imminent.²
 - “Imminent” is not defined in the HPA rules.³
 - The Hawaii Department of Corrections and Rehabilitation⁴ (Department) defines terminal illness as “a progressive and incurable medical condition that is expected to result in death.”⁵ To be eligible for Medical Release, the illness must also have “a predictably poor prognosis.”⁶
- The individual has a seriously debilitating condition for which treatment is not available in prison.⁷
 - Department policy defines a seriously debilitating condition as “a persistent and/or progressive illness that impedes the individual’s mental and/or physical capacities and compromises the quality of life.”⁸ The condition must also “impair the [individual]’s functional ability” to the extent that more appropriate care would be provided in a community setting.⁹

Additionally, Department policy includes the following two situations:

- The individual is too ill or cognitively impaired to participate in rehabilitation or to be aware of punishment.¹⁰
- The individual has a disease or condition that requires complex treatment or a level of care that the Department is unable to provide on a long-term basis.¹¹

Exclusions – Individuals serving a court ordered mandatory minimum sentence or a sentence of life without parole are ineligible for Medical Release.¹²

II. APPLICATION OR REFERRAL

An incarcerated individual can initiate a Medical Release request or Department physicians can recommend a Medical Release.¹³ Requests submitted by individuals go

through the same documentation and assessment process as those that physicians initiate.¹⁴ When a provider finds community care is “medically preferable” for a terminally ill individual, they must recommend the individual for transfer or Medical Release.¹⁵

III. DOCUMENTATION AND ASSESSMENT

Memorandum – An incarcerated individual’s primary care physician must draft a memorandum to the Health Care Division’s Medical Director requesting a Medical Release recommendation.¹⁶ The memo must include the following information:

- The individual’s name, state identification number (SID), and date of birth.¹⁷
- The individual’s diagnosis, with a description of the medical condition.¹⁸
- A “functional description” of the individual, meaning an assessment of the individual’s ability to eat; perform personal care; walk; comprehend and recall information; and communicate an understanding of that information.¹⁹
- A designation of the Medical Release criteria the individual meets.²⁰

Prescriptive Plan Update – The next step in the process varies slightly depending on whether the incarcerated individual is subject to parole.

- **Subject to Parole** – For an individual subject to parole, the Clinical Section Administrator (CSA) requests an abbreviated Prescriptive Plan Update (PPU)²¹ from the appropriate correctional facility.²² The PPU must include, at a minimum, the individual’s risk assessment, prison behavior, participation in required programs, detention charges, sentences, conviction history, and custody status.²³
- **Not Subject to Parole** – When an individual is serving a determinate sentence of less than one year and **not** subject to parole, the CSA requests a “report” (not a PPU) from the correctional facility that summarizes the individual’s risk assessment, prison behavior, participation in required programs, detention charges, sentences, conviction history, and custody status.²⁴

The CSA attaches the PPU or report to the medical recommendation and sends the documents to the Medical Director.²⁵

Approval and Submission – The Medical Director approves or disapproves the Department physician’s recommendation²⁶ and forwards all recommendation requests to the Department’s Corrections Health Care Administrator (Administrator).²⁷ The Health Care Division can submit an updated Medical Release recommendation if a denied individual’s condition changes.²⁸

The Administrator submits all the relevant information with a cover memo recommending Medical Release to the Department Director, through the Deputy Director of Correctional Institutions.²⁹ Both the Director and Deputy Director must sign the memo to acknowledge the recommendation.³⁰ The Director then forwards the recommendation, with comments, to the HPA.³¹

IV. DECISION-MAKING PROCESS

Decision-Maker – The HPA decides whether to grant Medical Release based on the recommendation and information the Department submits.³² The HPA Parole Handbook states they consider requests and determine early parole or release at their discretion.³³

Parole Process – There is no additional information on the HPA’s decision-making guidelines or process for Medical Release. However, the rules for parole generally may apply.³⁴ Incarcerated individuals may be represented by counsel, consult others, be heard, and present relevant information before the HPA at a hearing.³⁵ Individuals are responsible for preparing a parole plan for the HPA to consider.³⁶ A parole plan must include information on the “life the [individual] intends to lead,” how their needs will be addressed, housing information, names of other people living with the individual, and employment.³⁷ For Medical Release, individuals must also show they will receive appropriate medical care and their financial needs will be met.³⁸ At a hearing, the State may be represented by the prosecuting attorney and the HPA must consider the prosecutor’s oral and written testimony when making a decision.³⁹

Victims – Victim rights requirements for parole generally may apply to the Medical Release process, including notice of parole hearings, release and restitution.⁴⁰

Public Safety – Additionally, Hawaii law provides parole generally will not be granted unless there is a “reasonable probability” the individual will not violate the law and their release is “not incompatible with the welfare and safety of society.”⁴¹

V. POST-DECISION

There is no information in Hawaii statutes or administrative rules or in Department or HPA policy on supervision, revocation, or other post-decision issues related to Medical Release.⁴²

VI. REPORTING AND STATISTICS

The HPA is not required to report on how many Medical Releases it has granted or denied, and that information is not included in its annual reports.

HAWAII COMPASSIONATE RELEASE **PRIMARY LEGAL SOURCES**

MEDICAL RELEASE

Rules

Hawaii Administrative Rules §§ 23-700-26(c) and 23-700-29(b) (dated January 1991 but listed as current as of June 2025), available through the Hawaii Paroling Authority, <https://dcr.hawaii.gov/wp-content/uploads/2012/09/HPA-Administrative-Rules-Chapter-23-700.pdf> (start at source page <https://dcr.hawaii.gov/hpa/> and then scroll to link “HPA Administrative Rules Chapter 23-700”).

Agency Policy

Hawaii Department of Corrections and Rehabilitation, Corrections Administration: Policy and Procedures, COR.10.1G.11, *Medical Releases* (Dec. 29, 2014), <https://dcr.hawaii.gov/wp-content/uploads/2024/06/COR.10.G.11-Medical-Releases.pdf> (start at source page <https://dcr.hawaii.gov/policies-and-procedures/pp-cor/> and then scroll to “Chapter 10” and “Section G Medical-Legal Issues”).

NOTES

* *Id.* means see prior note. *Supra* means refer to specified note for full citation.

¹ Haw. Code R. §§ 23-700-26(c), 23-700-29(b) (2025); Hawaii Department of Corrections and Rehabilitation, Corrections Administration: Policy and Procedures, COR.10.1G.11, *Medical Releases* (Dec. 29, 2014) [hereinafter *Medical Releases*], <https://dcr.hawaii.gov/wp-content/uploads/2024/06/COR.10.G.11-Medical-Releases.pdf> (start at source page <https://dcr.hawaii.gov/policies-and-procedures/pp-cor/> and then scroll to “Chapter 10” and “Section G Medical-Legal Issues”).

Note the administrative rules are for release on a medical basis under a reduction of minimum term of imprisonment. They do not provide a process for release for individuals whose minimum term has ended. However, the Department of Corrections and Rehabilitation policy on medical releases does not differentiate between an individual whose term has ended and an individual who is still serving their minimum term.

Additionally, the Hawaii Paroling Authority Parole Handbook treats a reduction of minimum term of imprisonment the same as an “early parole” (Hawaii Paroling Authority, *Parole Handbook* 11 (Sept. 2020) [hereinafter *Parole Handbook*], https://dcr.hawaii.gov/hpa/wp-content/uploads/sites/3/2024/02/HPA-Parole-Handbook_Revised_09_2020-1.pdf (start at the main webpage at <https://dcr.hawaii.gov/hpa/> and scroll about a quarter of the page down and click the handbook link)).

FAMM has confirmed the process for both a reduction of minimum term of imprisonment and early parole are the same and follow the department’s medical release policy (Email from Christin M. Johnson, Oversight Coordinator, Hawaii Correctional System Oversight Commission, to FAMM (May 21, 2025), [hereinafter *Email*] (on file with FAMM, Office of the General Counsel)).

This memo uses the term “Medical Release” to describe the process for release based on a medical condition without differentiating between reduction of minimum term of imprisonment and early parole.

² Haw. Code R. §§ 23-700-26(c), 23-700-29(b); *Medical Releases*, *supra* note 1, § 3.0.

³ Haw. Code R. §§ 23-700-26(c), 23-700-29(b).

⁴ Note that the Department of Corrections and Rehabilitation was previously called the Department of Public Safety, and many policies and publications still use the old name. See H.B. 2171, 31st Leg. § 50 (Haw. 2022), stating all references to the Department of Public Safety should be amended to refer to the new department.

⁵ *Medical Releases*, *supra* note 1, § 2.2(a).

⁶ *Medical Releases*, *supra* note 1, § 3.0.

⁷ Haw. Code R. §§ 23-700-26(c), 23-700-29(b).

⁸ *Medical Releases*, *supra* note 1, § 2.2(b).

⁹ *Id.* § 3.0.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Parole Handbook*, *supra* note 1, at 11.

Note individuals serving a sentence of life without parole may have their sentence commuted to life with parole after serving twenty years and any mandatory minimum term (Haw. Code R. § 23-700-62 (2025)). The HPA prepares the application for the Governor’s review and decision and, within six months of any commutation, the HPA holds a hearing to determine the individual’s minimum term (*Id.*). See Hawaii Paroling Authority, *Information* (Oct. 3, 2022), <https://dcr.hawaii.gov/hpa/>; FAMM, *State Clemency Resources: Hawaii*, <https://famm.org/wp-content/uploads/2023/09/hi-state-clemency.pdf> for further information.

First-degree murder or attempted murder sentences for individuals 21 years or older and second-degree murder offenses that meet enhanced sentence criteria are sentenced to life without parole (Haw. Rev. Stat. §§ 706-656, 706-657 (2025)). The court may impose a mandatory minimum for felonies involving a firearm; felonies involving the death or serious bodily injury of a child, elderly person, or disabled person; or certain felonies where the individual has been convicted of a felony previously (Haw. Rev. Stat. §§ 706-660.1 (firearm), 706-660.2 (children, elderly people, disabled people), 706-606.5 (previous convictions) (2025)).

¹³ *Medical Releases*, *supra* note 1, § 3.0.

¹⁴ *Id.*

Note that *Medical Releases* also says an incarcerated individual may “submit a recommendation from a private licensed medical doctor” if it is obtained pursuant to Haw. Rev. Stat. § 353.13.5 (permitting individuals to retain their private doctor or psychologist for care at a correctional facility at their own expense) (*Medical Releases*, *supra* note 1, § 4.2). A Department physician must then evaluate that recommendation (*id.* § 4.3).

¹⁵ Hawaii Department of Corrections and Rehabilitation, Corrections Administration: Policy and Procedures, COR.10.F.07, *Care for the Terminally Ill* § 4.3 (Jan. 01, 2024), <https://dcr.hawaii.gov/wp-content/uploads/2024/06/COR.10.F.07-Care-for-the-Terminally-Ill.pdf> (start at source page <https://dcr.hawaii.gov/policies-and-procedures/pp-cor/> and then scroll to “Chapter 10” and “Section F Special Needs and Services”).

¹⁶ *Medical Releases*, *supra* note 1, § 4.4.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* §§ 2.2(e), 4.4.

²⁰ *Id.* § 4.4.

²¹ Prescriptive Plan Updates (PPUs) are part of the Department’s case management process, where individuals are assessed so they may be connected to programs and activities that fit their risks, needs, goals, and custody classification. See Hawaii Department of Corrections and Rehabilitation, Corrections Administration: Policy and Procedures, COR.14.03, *Prescriptive Program Plans* (Jan. 01, 2024), <https://dcr.hawaii.gov/wp-content/uploads/2024/06/COR.14.03-Prescriptive-Program-Plans.pdf> (start at source page <https://dcr.hawaii.gov/policies-and-procedures/pp-cor/> and then scroll to “Chapter 14” “Inmate Programs, Activities, and Services”).

²² *Medical Releases*, *supra* note 1, § 4.5.

²³ *Id.*

²⁴ *Id.* § 4.6.

²⁵ *Id.* § 4.5.

²⁶ *Id.* § 4.7.

²⁷ *Id.*

²⁸ *Id.* § 4.10.

²⁹ *Id.* § 4.8.

³⁰ *Id.*

³¹ *Id.* § 4.9.

³² *Id.*

³³ Hawaii Paroling Authority, *supra* note 1.

³⁴ See Haw. Rev. Stat. § 353-68, 706-670 (2025) for information on parole generally.

³⁵ Haw. Code R. § 23-700-32(b)(1)-(4) (2025).

Note if the individual cannot afford counsel, they may request to have counsel appointed.

³⁶ *Id.* § 23-700-32(c).

Note the individual may request assistance from a parole office in preparing a parole plan (*id.* § 23-700-32(b)(5)).

³⁷ *Id.*

³⁸ *Email*, *supra* note 1.

³⁹ Haw. Code R. § 23-700-32(d).

⁴⁰ See Haw. Rev. Stat. §§ 353-132, 706-646, 801D-4 (2025) for victim rights requirements generally.

⁴¹ Haw. Rev. Stat. § 353-69 (2025).

⁴² See Hawaii Paroling Authority, *supra* note 1, at 30-31 for standard terms and conditions of parole and Haw. Rev. Stat. §§ 353-66, 706-670 (2025) for information on parole conditions, supervision and revocation generally.