Hawaii provides compassionate release to eligible prisoners with deteriorating or terminal medical conditions through its Medical Release program.¹

**MEDICAL RELEASE**

I. ELIGIBILITY

Medical Condition - Prisoners will be considered for Medical Release if they meet one or more of the following criteria:

- The prisoner has a terminal illness (defined as “a progressive and incurable medical condition that is expected to result in death”²) with “a predictably poor prognosis.”³

- The prisoner has a seriously debilitating (i.e., “persistent and/or progressive”⁴) mental or physical condition that impairs functional abilities to the extent that he or she would be more appropriately “managed in a community setting.”⁵

- The prisoner is too ill or cognitively impaired to participate in rehabilitation and/or to be aware of punishment.⁶

- The prisoner has a disease or condition that requires a complexity of treatment or a level of care that the Hawaii Department of Public Safety (Department) is unable to provide on a long-term basis.⁷

Exclusions - There are no prisoners automatically excluded from Medical Release consideration.

II. APPLICATION/REFERRAL

A Medical Release request can be initiated by a prisoner⁸ and/or recommended by a Department physician.⁹ Requests submitted by prisoners go through the same recommendation and documentation process as those initiated by the physicians.¹⁰

III. DOCUMENTATION AND ASSESSMENT

Memorandum/Primary Care Doctor - The prisoner’s primary care physician drafts a memorandum to the Health Care Division Medical Director (Medical Director) requesting a Medical Release recommendation.¹¹ The memo must include the following information:

- The prisoner’s name, SID (state identification number), and date of birth;¹²

- The prisoner’s diagnoses, with a description of the condition;¹³
• A “functional description” of the prisoner, meaning an assessment of his or her ability to eat, perform personal care, ambulate, comprehend and recall information, and communicate an understanding of that information;¹⁴ and

• A designation that the prisoner meets the Medical Release criteria.¹⁵

Additional Information/Clinical Section Administrator (CSA) - The next step in the process varies slightly depending on whether the prisoner is “subject to parole.”

• **Subject to Parole** - For a prisoner subject to parole, the CSA requests an abbreviated “Prescriptive Plan Update” (PPU)¹⁶ from the facility where he or she is housed.¹⁷ The PPU must include, at a minimum, the prisoner’s risk assessment, prison behavior, participation in required programs, detention charges, sentences, conviction history, and custody status.¹⁸

• **Not Subject to Parole** - If a prisoner is *not* subject to parole because he or she is serving a determinate sentence of less than one year, the CSA requests a “report” (not a PPU) from the facility that summarizes the information required, as detailed in the previous paragraph.¹⁹

The CSA attaches the PPU or report to the medical recommendation and sends the documents to the Medical Director.²⁰

Approval of Recommendation/Medical Director - The Health Care Division’s Medical Director approves or “disapproves” the Department physician’s recommendation²¹ and forwards all recommendation requests to the Department’s Corrections Health Care Administrator (Administrator).²²

• The Health Care Division can resubmit an updated Medical Release recommendation if a denied prisoner’s condition changes.²³

Packet Submission/Administrator - The Administrator submits the information “packet” with a cover memo recommending Medical Release to the Department Director, through the Deputy Director for Corrections.²⁴

Comments and Signature/Department Director and Deputy Director for Corrections - Both the Director and Deputy Director must sign the memo to acknowledge the recommendation.²⁵ The Director then forwards the recommendation, with his or her comments, to the Hawaii Paroling Authority.²⁶
IV. DECISION-MAKING PROCESS

Decision Maker - The Hawaii Paroling Authority decides whether to grant Medical Release based on the recommendation and information the Department submits.27

- Note that Hawaii’s parole rules28 do not reflect the Department’s current eligibility guidelines for Medical Release, although amendments have been proposed. As of Jan. 1, 2018, new regulatory language had not yet been approved.29

V. POST-DECISION

There is no information in the statute, administrative regulations, or Department policy on supervision, revocation, or other post-decision issues.

VI. REPORTING/STATISTICS

The Paroling Authority is not required to report on how many Medical Releases it has granted or denied, and this information is not included in its annual reports.30

NOTES

1 Hawaii Department of Public Safety, Corrections Administration Policy and Procedures (COR Policy) 10.1G.11-Medical Releases (Dec. 29, 2014), http://dps.hawaii.gov/wp-content/uploads/2015/10/COR.10.1G.11.pdf. Note that there are no statutory provisions related to Medical Release. The Hawaii Revised Statutes provide only that the Hawaii Department of Public Safety, which includes the Corrections Division and Hawaii Paroling Authority, has the authority to formulate and implement policies and “take all actions deemed necessary and appropriate for the proper and efficient administration of the department.” Haw. Rev. Stat. § 353C-2 (a) (6).
2 COR Policy 10.1G.11, § 2.2 (a).
3 Id. at § 3.
4 Id. at § 2.2 (b).
5 Id. at § 3.
6 Id.
7 Id.
8 Id.
9 Id.
10 Id. Note that the COR Policy also says a prisoner may “submit a recommendation from a private licensed medical doctor” if it is obtained pursuant to Haw. Rev. Stat. § 353.13.5 (which permits prisoners to retain their private doctor or psychologist for care at a correctional facility at their own expense). Id. at § 4.2. However, it will then have to be evaluated by a Department physician. Id. at § 3.
12 Id.
13 Id.
14 Id. at §§ 2.2 (e) and 4.4.
15 COR Policy 10.1G.11, § 4.4.
16 Prescriptive Plan Updates, or PPUs, are part of the Department’s case management process, where prisoners’ needs are assessed so they may be connected to programs and activities that are appropriate to their needs and custody classification. Case management includes a “transitional phase” that focuses on issues related to reintegration into the community. The PPUs include questions regarding medical, social, and emotional well-being. See COR Policy 14.03-Prescriptive Program Plans, https://dps.hawaii.gov/wp-content/uploads/2012/10/COR.14.03.pdf.
17 COR Policy 10.1G.11, § 4.5.
Id. at § 4.6.
Id. at § 4.5.
Id. at § 4.7.
Id.
Id. at § 4.10.
Id. at § 4.8.
Id.
Id. at § 4.9.
Id.
See Hawaii Paroling Authority annual reports at http://dps.hawaii.gov/hpa/.