Idaho provides compassionate release to eligible prisoners with serious medical conditions through Medical Parole.¹

**MEDICAL PAROLE**

**I. ELIGIBILITY**

**Medical Condition** - To be eligible for Medical Parole, a prisoner must be:

- Permanently and irreversibly physically incapacitated by reason of an existing physical condition that is not terminal and, due to that condition, he or she poses no threat to community safety;² or

- Irreversibly terminally ill, having an incurable condition caused by illness or disease, and posing no threat to community safety due to that condition.³

**Exclusion** - Prisoners under a sentence of death are not eligible for Medical Parole.⁴

**II. APPLICATION/REFERRAL**

The Medical Parole process can be started by any of the following individuals submitting a “written referral” to the facility’s Deputy Warden:⁵

- The prisoner;⁶

- The prisoner’s family;⁷

- Department of Correction (Department) staff;⁸

- The facility or Department “health authority;”⁹ or

- The Idaho Commission of Pardons and Parole (Commission).¹⁰

The referral must include (1) the prisoner’s name; (2) the reason for the referral; and (3) how he or she meets the Medical Parole requirements.¹¹

**III. DOCUMENTATION AND ASSESSMENT**

**Evaluation Request/Deputy Warden** - Within three working days of receiving a referral, the Deputy Warden must ask the facility health authority for a medical evaluation that includes the prisoner’s diagnosis, prognosis, and needed level of care if he or she is released (e.g., hospital, nursing home, hospice, or outpatient care).¹²
**Medical Evaluation/Facility Health Authority** - Within five days of receiving the Deputy Warden’s request, the facility health authority must have a physician complete a medical review and provide the Deputy Warden with the required information about the prisoner.  

- Note that prisoners serving sentences for certain crimes, or whose history and conduct indicate they are “sexually dangerous,” must also be examined and evaluated by “one or more psychiatrists, psychologists, or mental health professionals the Department has designated for this purpose.”

**Review/Deputy Warden** - The Deputy Warden (or a designee) reviews all of the information to see if the prisoner meets the medical criteria:

- If the prisoner does not meet the Medical Parole criteria, the Deputy Warden must notify the prisoner (or the person who submitted the referral on his or her behalf) and, within three days, forward the evaluation report to the Commission and the facility health authority. The facility process ends at this point, although if the prisoner’s condition gets worse, there can be another review.

- If the evaluation indicates that the prisoner does meet the medical criteria, the process continues.

**Parole Packet and Plan/Deputy Warden** - The Deputy Warden, or his or her designee, must then prepare a parole “packet” and a parole plan for the prisoner.

- **Packet** - Within five days, the Deputy Warden must prepare a parole packet that includes: (1) A completed Request for Parole Consideration; (2) the doctor’s report; (3) the prisoner’s pre-sentence report; (4) a psychological or mental health evaluation, if available; (5) commitment orders; and (6) a current progress report.

- **Parole Plan** - The Deputy Warden also completes a parole plan for the prisoner that includes the following information:

  - Proposed living arrangements that are consistent with the doctor’s recommendations;
  - A description of the medical care arranged for the prisoner;
  - Resources available to pay for the prisoner’s living and medical expenses;
  - Support of family and friends available to the prisoner; and
  - Transportation arrangements, including medical transportation if needed.

Note that if the prisoner’s family members and/or friends want to help with the development of the parole plan, they must contact the Deputy Warden preparing the plan.
The Deputy Warden then forwards the packet and the parole plan to the warden/facility head.  

Review and Comment/Warden - The Warden reviews the packet and includes comments, if any, on the Request for Parole Consideration form. He or she then forwards it to the Executive Director of the Commission, with a copy to the health authority.

**IV. DECISION-MAKING PROCESS**

Decision Maker - The Commission of Pardons and Parole reviews and decides all Medical Parole requests.

Decisions - In making its decisions, the Commission may (1) conduct a review of the case; (2) conduct a hearing; and/or (3) designate Commission staff to gather additional medical information, including a proposed treatment or care plan.

- The Commission will also consider any letters and phone calls in favor or against a prisoner’s Medical Parole.

- The Commission rules note that if it holds a Medical Parole hearing, the prisoner “is encouraged” to be present. It can mandate the prisoner’s appearance or simply make a final decision based on the available information.

Notice - If the Commission grants Medical Parole, it must notify the Warden.

**V. POST-DECISION**

It appears that the general parole rules apply to those granted Medical Parole, as there are no additional requirements or post-release rules specific to Medical Parole mentioned in the statute, administrative code, or Department procedures.

**VI. REPORTING/STATISTICS**

Idaho law directs the Commission to prepare an annual report containing the name, crime, medical condition, and current status of all prisoners granted Medical Parole for the Idaho House and Senate Judiciary Committees. It is unknown whether that information has been reported, as there is nothing publicly available on the Commission’s website.

- The Commission’s 2017 “summary report” includes the total number of parole hearings - which includes an unspecified number of Medical Parole hearings - but does not include any other information on prisoners granted Medical Parole.
NOTES

1 Idaho Code § 20-223 (8) (2017); Idaho Admin. Code § 50.01.01.250-05 (2018); Idaho Department of Correction Standard Operating Procedure (SOP) 324.02.01.002-Parole of Offenders with a Terminal Disease or Permanent Incapacitation.
2 Idaho Code § 20-223 (8); Idaho Admin. Code § 50.01.01.250-05 (a); SOP 324.02.01.002, § 1.
3 Idaho Code § 20-223 (8); Idaho Admin. Code § 50.01.01.250-05 (a); SOP 324.02.01.002, § 1.
4 Idaho Code § 20-223 (1).
5 SOP 324.02.01.002, § 2 (Step 1).
6 Idaho Admin. Code § 50.01.01.250-05 (b); SOP 324.02.01.002, § 1.
7 SOP 324.02.01.002, § 2.
8 Idaho Admin. Code § 50.01.01.250-05 (b); SOP 324.02.01.002, § 2.
9 SOP 324.02.01.002, § 2. The facility “health authority” is the contract medical provider employee primarily responsible for overseeing the delivery of medical services in an Idaho Department of Correction facility. The Department health authority is the person responsible for managing the Department’s medical and mental health services, sometimes referred to as the Health Services Director. Id.
10 Id.
11 Id. (Step 1).
12 Id. (Step 2), referencing SOP 324.02.01.002 Appendix A-Request for a Medical Evaluation.
13 Id. (Steps 3 and 4).
14 Those specific crimes are rape, incest, committing a lewd act upon a child, crime against nature, or an assault with intent to commit any such crimes. In addition, the statute adds that the Commission may require a similar examination and evaluation for prisoners serving sentences for other crimes, although no examples or additional information is given. See Idaho Code § 20-223 (3).
15 Idaho Code § 20-223 (3).
16 SOP 324.02.01.002, § 2 (Step 5).
17 Id.
18 Id.
19 Id. (Step 6), referencing SOP 324.02.01.002 Appendix B-Request for Parole Consideration. Note that this includes the required mental health evaluation(s) for prisoners serving a sentence for certain crimes or who are considered “sexually dangerous.”
20 Id. Note that the five-day time frame appears to apply to the “parole packet” but not the parole plan.
21 Id. at § 3.
22 Id. at § 2 (Step 7).
23 Id. (Step 8).
24 Id. (Step 9).
25 Idaho Code § 20-223 (8); Idaho Admin. Code § 50.01.01.250-05; SOP 324.02.01.002, § 2 (Step 10).
26 Idaho Admin. Code § 50.01.01.250-05 (c).
27 SOP 324.02.01.002, § 3.
28 Idaho Admin. Code § 50.01.01.200-05
29 SOP 324.02.01.002, § 2 (Step 10).
30 See Idaho Admin. Code § 50.01.01.
31 Idaho Code § 20-223 (9); Idaho Admin. Code § 50.01.01.250-05 (d).