Louisiana provides compassionate release to eligible prisoners with serious medical conditions and terminal illnesses through (1) **Medical Parole**;\(^1\) (2) **Compassionate Release**;\(^2\) and (3) **Medical Treatment Furlough**.\(^3\) Louisiana also provides compassionate release based on advanced age through its general Parole rules.\(^4\)

**MEDICAL PAROLE**

I. ELIGIBILITY

**Medical Condition** - To be eligible for Medical Parole, a prisoner, because of an existing medical or physical condition, must be:

- *Permanently disabled*, defined as unable to engage in any “substantial gainful activity” by reason of any medically determinable physical impairment that is “permanently irreversible” or can be expected to result in death;\(^5\) or

- *Terminally ill*, defined as having a life expectancy of less than one year due to an underlying medical condition.\(^6\)

Medical Parole will generally not be granted if the prisoner’s medical condition was present at the time of sentencing. However, if the condition has significantly deteriorated since that time, it may still be considered.\(^7\) In addition, Department of Public Safety and Corrections (Department) policy says that a prisoner with a “contagious disease” will not be considered for Medical Parole.\(^8\)

**Exclusions** -

- **Medical Parole** is not available to prisoners serving sentences for first- or second-degree murder or to prisoners with a death sentence.\(^9\)

- The prisoner must not present a threat to public safety. To determine this, the Department considers his or her medical condition and criminal history, length of time served in custody, and institutional conduct.\(^10\)

II. APPLICATION/REFERRAL

The Department is responsible for identifying individuals who may be eligible for Medical Parole.\(^11\)

- The process starts with the Unit Medical Director recommending the prisoner for Medical Parole and describing the nature of the terminal illness or incapacitation, prognosis, treatment given, current plan of care, extent of help needed with activities of daily living, and the type of care needed to maintain the patient.\(^12\)
III. DOCUMENTATION AND ASSESSMENT

**Medical Determination/Unit Medical Director** - If the Medical Director believes the prisoner meets the eligibility criteria, he or she completes a *Recommendation for Medical Release* and obtains a letter from the prisoner’s treating physician or specialist describing the diagnosis, prognosis, extent of disease, and life expectancy, plus any other supporting documentation, and submits the documents to the Warden for consideration.

**Evaluation and Recommendation/Warden** - The Warden is responsible for evaluating the recommendation and if he or she agrees Medical Parole is appropriate, does the following:

- States an opinion as to whether the prisoner would constitute a danger to self or society if released;
- Details the prisoner’s proposed residence and care plan, including statements from prospective care providers that they are willing and able to provide the required care;
- Provides comments concerning the prisoner’s “adjustment” while incarcerated, including the effect his or her condition has had upon conduct; and
- Determines whether there is a victim notice and registration form on file.

The Warden then sends the favorable recommendation and all supporting documentation to the Department Secretary, who forwards everything to the Department’s Medical/Mental Health Director.

**Review/Department Medical Director** - The Medical/Mental Health Director reviews the request to make sure it complies with Department policy and any applicable laws and returns the request to the Secretary with his or her remarks.

**Recommendation/Secretary** - The Secretary can (1) forward the case to the Louisiana Committee on Parole (Committee) for review; (2) ask for additional information from medical and/or administrative staff before making a recommendation; or (3) decline to forward the case to the Committee.

IV. DECISION-MAKING PROCESS

**Decision Maker** - The authority to grant Medical Parole rests solely with the Louisiana Committee on Parole. However, the Committee will not grant Medical Parole unless the Department Secretary, or his or her designated Health Care Authority, first determines that the prisoner is permanently disabled or terminally ill.

**Hearings** - Upon referral by the Department, the Committee can schedule a prisoner for a hearing to consider Medical Parole.
• The Committee determines the risk to public safety and will grant Medical Parole only after determining that the prisoner does not pose a high risk to public safety. “In the assessment of risk, emphasis shall be given to the offender’s medical condition and how this relates to his [or her] overall risk to society.”

Conditions - The Committee can establish additional Medical Parole conditions if necessary to monitor the prisoner’s physical condition and to ensure that he or she will not be a danger to society.

V. POST-DECISION

Effect of Medical Parole Request on Parole or Other Release Eligibility - Consideration for Medical Parole is in addition to any other parole for which a prisoner may be eligible.

Denials and Appeal Rights - If the Department Secretary did not forward the Medical Parole request to the Committee, or the Committee’s review of the Medical Parole request was not favorable, a prisoner’s request to have those decisions reconsidered may be granted upon re-initiation of the process at the unit level.

Supervision - Supervision consists of periodic medical evaluations at intervals set by the Committee at the time of the individual’s release. The Department’s Division of Probation and Parole is responsible for monitoring all parolees.

Revocation/Termination - The parole term of a former prisoner released on Medical Parole is for the remainder of his or her sentence, without a reduction in the sentence for good behavior.

• If a parolee’s condition improves such that he or she would not be eligible for Medical Parole, the Committee can order the parolee returned to Department custody to await a hearing to decide on revocation.

• If Medical Parole is revoked due to an improvement in the parolee’s condition, he or she will resume serving the balance of the sentence with credit given for the duration of the Medical Parole.

• The Committee can also revoke Medical Parole for violations of any conditions it establishes.

VI. REPORTING/STATISTICS

The Division of Probation and Parole is directed to submit an annual report of all “medical releases” (prisoners released on either Medical Parole or Compassionate Release) to the Department’s Medical Director by January 10 each year. The Medical Director reviews the reports and submits them to the Secretary with comments.
COMPASSIONATE RELEASE

The Department of Public Safety and Corrections (Department) may authorize Compassionate Release of prisoners who are terminally ill or permanently incapacitated on its own, without the prisoner having to go through the Medical Parole process.33

I. ELIGIBILITY

Medical Condition - To qualify, a prisoner must meet one of the following criteria:

- **Terminally ill**, meaning the prisoner has been diagnosed with a terminal illness, death is expected within 60 days (as opposed to the “one year or less” definition for Medical Parole), and because of the condition, the prisoner constitutes only a minimal danger to self or society.34

- **Permanently incapacitated**, meaning the prisoner is, because of an existing physical or medical condition, so permanently and irreversibly physically incapacitated (including, but not limited to, being in a prolonged coma or on mechanical ventilation) he or she constitutes only a minimal danger to self or society.35

Exclusions - Prisoners who are sentenced to death will not be considered for Compassionate Release.36

II. APPLICATION/REFERRAL

Recommendation/Medical Director - Recommendations for Compassionate Release originate with the unit Medical Director. He or she must detail the nature of the terminal illness or incapacitation, prognosis, treatment given, current plan of care, extent of help needed with activities of daily living (e.g., eating, getting out of bed, using a wheelchair or walker), and the type of care needed to “maintain” the prisoner.37 If the Medical Director believes the prisoner meets the medical criteria for Compassionate Release consideration, he or she (1) completes a Recommendation for Medical Release;38 (2) obtains a letter from the prisoner’s treating physician/specialist describing the diagnosis, prognosis, extent of disease, and life expectancy, and providing any supporting documentation; and (3) submits the documentation to the Warden for consideration.39

- Note that generally Compassionate Release will not be granted if the prisoner’s condition was present at the time of sentencing unless his or her overall condition has significantly deteriorated since that time.40

III. DOCUMENTATION AND ASSESSMENT

Evaluation and Recommendation/Warden - The Warden is responsible for evaluating the recommendation. If the Warden agrees that Compassionate Release is appropriate, he or she does the following:
• States an opinion as to whether the prisoner would constitute a danger to self or society if released; 41

• Details the prisoner’s proposed residence and care plan, including statements from prospective care providers that they are willing and able to provide the required care; 42

• Provides comments concerning the prisoner’s “adjustment” while incarcerated, including the effect his or her condition has had upon conduct; 43 and

• Determines whether there is a victim notice and registration form on file. 44 If there is one on file, the Warden (or designee) notifies the victim or victim’s family member that the prisoner will be released if Compassionate Release is approved and asks for their comments. 45

The Warden then sends the favorable recommendation and all supporting documentation to the Secretary, who forwards the documentation to the Department’s Medical/Mental Health Director. 46

Notification and Review/Department Medical Director -

• Notification - The Department’s Medical/Mental Health Director sends a notice stating that Compassionate Release is being considered for the prisoner to the district attorney and the sheriff of both the parish where convicted and the parish where the prisoner expects to reside after release. 47

• Review - The Medical/Mental Health Director reviews the request to make sure it complies with Department policy and any applicable laws, and reviews any comments submitted by the district attorney, sheriff(s), or victims, and returns the request to the Secretary with his or her remarks. 48

IV. DECISION-MAKING PROCESS

Decision Maker - The Department Secretary makes the final decision regarding a Compassionate Release.

Decision - After reviewing all of the prisoner’s information, the Secretary makes one of the following decisions:

• Approves the Compassionate Release, concurring with the recommendation of the Department Medical/Mental Health Director, Warden, and medical staff; or

• Asks for additional information from medical and/or administrative staff before making a final decision; or

• Denies the Compassionate Release request. 49
If the Secretary approves the request, a terminally ill prisoner is discharged to the approved facility or residence. Prisoners who are permanently incapacitated will be “confined” in an acute care hospital or nursing home.

**V. POST-DECISION**

**Continuity of Care** - When a Compassionate Release is granted, the Department sends the appropriate medical information to the facility that will be providing medical care to ensure continuity of care.

**Notice** - When a Compassionate Release is approved, the Warden must notify the victim or the victim’s family by certified mail of the release.

**Supervision** - Prisoners approved for Compassionate Release are assigned to the Division of Probation and Parole for supervision, which includes monthly visits to monitor whether there is a “continued need” for Compassionate Release.

**Revocation/Termination** - The term of the release is for the remainder of the former prisoner’s sentence, without a reduction for good behavior.

- If a former prisoner granted Compassionate Release is released, discharged, or absconds from an acute care hospital, nursing home, assisted living facility, or a caregiver’s residence, the release is immediately rescinded.

**VI. REPORTING/STATISTICS**

As mentioned under the Medical Parole section, the Division of Probation and Parole is directed to submit an annual report of all “medical releases,” including prisoners who are granted Compassionate Release, to the Department’s Medical Director by January 10 each year. The Medical Director reviews the reports and submits them to the Secretary with comments.

**MEDICAL TREATMENT FURLOUGH**

On June 15, 2017, Gov. John Bel Edwards signed a 10-bill “justice reinvestment package” into law, which includes a new Medical Treatment Furlough provision. Medical Treatment Furlough is in addition to (not instead of) both Medical Parole and Compassionate Release, and the program became effective Nov. 1, 2017.

**I. ELIGIBILITY**

**Medical Condition** - Prisoners may be considered for Medical Treatment Furlough if they are ineligible for Medical Parole and have limited mobility (defined as “bedbound” or being unable to perform activities of daily living without help, including individuals in a “prolonged coma” and those needing medical ventilation).
Exclusions - Prisoners awaiting execution are not eligible for Medical Treatment Furlough.  

II. ADDITIONAL INFORMATION

As of this report’s publication, there is only limited information on Medical Treatment Furlough:

- Placement for prisoners who are granted a Medical Treatment Furlough must be in an off-site medical facility, defined as an acute care hospital, nursing home, or other licensed medical facility that is able to meet his or her medical and treatment needs.  
- The Division of Probation and Parole is responsible for all necessary monitoring, security, and supervision requirements.  

Louisiana’s Governor is expecting huge savings from the Medical Treatment Furlough program, primarily because he expects prisoners who are furloughed to receive Medicaid benefits, ultimately saving Louisiana millions of dollars. Louisiana spent more than $75 million on prisoner health care in 2016. However, shortly after the bill was signed in 2017, Louisiana policymakers expressed concerns about the future of the program, speculating that proposed federal budget cuts in Medicaid would significantly affect the hoped-for cost savings.  

PAROLE BASED ON ADVANCED AGE

I. ELIGIBILITY

Age - Prisoners meet the following age and time-served criteria may be eligible for Parole.

- **Age 45 and older:** Unless eligible for parole at an earlier date, prisoners age 45 and older serving a sentence of 30 years or more are eligible for parole consideration when they have served at least 20 years in custody.  
  - **Exclusions** - These provisions do not apply to any prisoner convicted of armed robbery, a crime of violence, or a sex offense.  

- **Age 60 and older:** Unless eligible for parole at an earlier date, prisoners age 60 and older who have served at least 10 years of their sentence are eligible for parole consideration if they have met all of the following conditions:  
  - No major disciplinary offenses in 12 consecutive months prior to the parole hearing date.  
  - Completion of 100 hours of pre-release programming (although only if it is available at the facility where the prisoner is housed).  
  - Completion of substance abuse treatment, if applicable.  

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Attainment of a GED credential, unless the prisoner previously received a high school diploma or determined to be incapable of obtaining a GED. In that case, the prisoner must complete a literacy program, adult basic education program, or a job-skills training program.\(^71\)

A “low-risk level designation” determined by “a validated risk assessment instrument” approved by the Department.\(^72\)

**Exclusions** - Prisoners convicted of a crime of violence or a sex offense are not eligible for parole consideration under this provision.\(^73\)

### II. ADDITIONAL INFORMATION

There is no additional age-specific parole information in the state law or agency policies on applying for parole or the decision-making process. Thus, it appears that Louisiana’s general parole rules apply to prisoners seeking Parole Based on Advanced Age.\(^74\)

### NOTES

2. DPSC Policy HC-06, §§ 5-A and 6.
5. La. Stat. Ann. § 15:574.20 (B) (1) (a); La. Admin. Code tit. 22, § 307.B; Committee Policy 03.301 § B.2. Note that this mirrors the definition of disability used by the Social Security Administration (e.g., the substantial gainful activity requirement), which is not appropriate in this context since it isn’t applicable to individuals who are incarcerated (e.g., SGA is defined using an earnings amount, which prisoners would not be able to meet).
8. DPSC Policy HC-06, § 7. This exclusion is not in the Medical Parole statute or regulations.
11. Id. at (A).
12. DPSC Policy HC-06, § 7-E.
13. DPSC Policy, Form HC-06-A.
14. DPSC Policy HC-06, § 7-F.
15. Id. at § 7-G.
16. Id. at § 7-H.
17. Id. at § 7-I.
18. Id. at § 7-J.
20. Committee Policy 03.301 § B.2 (E).
DPSC Policy HC-06, § 7-K.
La. Stat. Ann. § 15:574.20 (G). Note that the administrative regulations (but not the statute) state that if Medical Parole is revoked due to an improvement and the individual is otherwise eligible for parole, she or he will be considered under La. Stat. Ann. § 574.4. See La. Admin. Code tit. 22, § 307-F.1.a and DPSC Policy HC-06, § 7-D.
DPSC Policy HC-06, § 8. It doesn't appear the reports are made public as they include confidential and personal information.
Id. at §§ 5-A and 6. Note that HC-06 is dated September 2010 but there is nothing indicating it has been rescinded or modified. A separate Compassionate Release policy is not mentioned or modified in the Louisiana statute or administrative regulations, but the term “compassionate release” has been used in various news articles about Louisiana’s serious prison-overcrowding issues.
DPSC Policy HC-06, § 5-A.
Id. at § 5-E.
Id. at § 6-A.
Id. at § 6-C.
DPSC Form HC-06-A.
Id. at § 6-D.
Id. at § 6-E.
Id.
Id. Under the Compassionate Release rules, terminally ill prisoners may be discharged to an acute care hospital, nursing home, assisted living facility, or a caregiver's residence. Id. at § 6-A.
Id. at § 6-E.
Id.
Id. at § 6-H.
Id. at § 6-F.
Id. at § 6-G.
Id. at § 6-I.
Id. at § 6-J.
Id. at § 6-A.
Id. at § 6-B.
Id. at § 6-N.
Id. at § 6-H. If a sex offender is approved for Compassionate Release, the Warden must following the notification requirements in Department Regulation No. B-08-009, Sex Offender Notification and Registration Requirements.
Id. at § 6-O.
Id. at § 6-K.
Id. at § 6-Q.
Id. at § 8. It doesn’t appear the reports are made public, as they include confidential and personal information.
The Louisiana Register published a “Notice of Intent” on Aug. 30, 2017, with proposed administrative regulations for the Medical Treatment Furlough program. As of Dec. 31, 2017, they have not yet been published in final form.
La. Stat. Ann. §§ 15:574.20 (C) (2) (a) and (b).
id. at (C) (1) (a).
id. at (C) (1) (b).
63 Id. at (C) (3) (b).
66 Id., referencing La. Stat. Ann §§ 14:64 (armed robbery), 14:2 (B) (listing 47 crimes that are considered crimes of violence), and 15.541 (listing sex offenses).
67 Id. at (A) (4).
68 Id. at (A) (4) (b).
69 Id. at (A) (4) (c).
70 Id. at (A) (4) (d).
71 Id. at (A) (4) (e).
72 Id. at (A) (4) (f).
73 Id. at (A) (4) (a), referencing La. Stat. Ann. §§ 14.2 (B) and 15:541.