Maine provides compassionate release to prisoners with an incapacitating or terminal medical condition through *Supervised Community Confinement.*

**SUPERVISED COMMUNITY CONFINEMENT**

**I. ELIGIBILITY**

**Medical Condition** - To be eligible, a prisoner must have a severely incapacitating or terminal medical condition, for which care outside a correctional facility is medically appropriate.

**Exclusions** -

- Prisoners will only be considered for Supervised Community Confinement if they have a minimum-security classification.
- The general eligibility requirements related to time served do not apply to prisoners with incapacitating or terminal medical conditions.
- For prisoners “likely to have contact with a previous victim of the prisoner for domestic violence, a sex offense, or child abuse,” transfers to Supervised Community Confinement are not allowed unless the Commissioner has granted a waiver.

**II. APPLICATION/REFERRAL**

The Chief Administrative Officer (or a designee) of each adult correctional facility is responsible for maintaining a process that allows eligible prisoners to apply for participation in the Supervised Community Confinement program.

- Prisoners interested in transferring must submit an application to the facility’s Community Programs Coordinator or other designated staff to get the process started.

Department policy does not state whether someone else can submit an application on a prisoner’s behalf if he or she is too ill to do so.

**III. DOCUMENTATION AND ASSESSMENT**

**Initial Determination/Community Program Coordinator** - The facility’s Community Program Coordinator or other designated staff determines if the prisoner is eligible for Supervised Community Confinement. If so, the application is referred to the Unit Management Team.

**Review/Unit Management Team** - In considering a prisoner for transfer to Supervised
Community Confinement, the Unit Management Team reviews all of the following:

- Institutional adjustment;
- Compliance with individualized case plans;
- Criminal history;
- History of revocation while on supervision in the community or of violations of conditions of release;
- Any previous violations of a community transition program or the Supervised Community Confinement program;
- Community risk assessment;
- Safety of the public and the prisoner;
- Behavior, conduct, and “social” attitudes;
- Work record;
- Mental and emotional stability;
- Suitability of the proposed residence;
- Adequacy of the plan for work, education, and/or treatment; and
- Any other relevant factors.

Medical Determination/Director of Medical Care - The Maine Department of Corrections (Department) Director of Medical Care is responsible for determining if the prisoner has a terminal or severely incapacitating medical condition and whether care outside of the correctional facility is medically appropriate.

- It is not clear from the Department rules whether the medical determination happens before or after, or simultaneously with, the Community Program Coordinator’s evaluation and the Unit Management Team’s review.

IV. DECISION

Decision Maker - The Department Commissioner decides which prisoners can be transferred to Supervised Community Confinement “through any process that [he or she] determines appropriate.”

There are no details available on what factors the Commissioner considers when making a decision regarding a prisoner who is severely incapacitated or terminally ill.

Conditions -

- Environment - Prisoners transferred to Supervised Community Confinement must live in an approved hospital or other care facility (such as a nursing home, residential care facility, or a licensed hospice program). Individuals can also receive approved hospice services or other care services at home, if approved by the Commissioner. A prisoner must consent to a transfer from a correctional facility to the proposed setting.
Other Conditions - Maine law includes a list of mandatory conditions for prisoners transferred to Supervised Community Confinement, including curfews, travel restrictions, and work requirements. The Department Commissioner can exempt those who are transferred for medical reasons from any of the otherwise mandatory conditions that are not appropriate or applicable.

V. POST-DECISION

Denials and Appeal Rights - All decisions related to Supervised Community Confinement transfers “are at the complete discretion of the Commissioner, or designee, and these decisions may not be appealed.”

Supervision - The Regional Correctional Administrator of each adult community corrections region is responsible for supervising prisoners while on Supervised Community Confinement.

Medical Updates - Prisoners transferred to Supervised Community Confinement must provide any information about their medical conditions or care that the Commissioner requests.

Revocation/Termination - Supervised Community Confinement can be revoked if: (1) the prisoner fails to comply with the Commissioner’s request for medical or care information; (2) the Department’s Director of Medical Care determines that the prisoner no longer has a terminal or severely incapacitating medical condition; or (3) care outside a correctional facility is not medically appropriate.

VI. REPORTING/STATISTICS

Maine does not require the Department to report on the number of prisoners released to Supervised Community Confinement. However, the December 2017 Department of Corrections “In-State Facility Capacity and Population” report lists 20 men and eight women in Supervised Community Confinement. It does not say whether they are medically related confinements.

NOTES

3 Id. at A.2.D.
4 Id. at A.10; DOC Policy 27.2, § VI, Procedure I.1.
5 DOC Policy 27.1, § VI, Procedure B.12.
6 Id. at A.5.
7 Id. at D.2, referencing Attachment A: Supervised Community Confinement Application.
8 Id. at D.1.
9 Id. at D.10 (a - m).
11 DOC Policy 27.2, § VI-Procedure I.2.
15 Id. at A.3.
17 DOC Policy 27.2, § VI-Procedure I.2.
19 Id. at A.10; DOC Policy 27.2, § VI-Procedure I.3.