North Dakota provides compassionate release to eligible prisoners who have serious or terminal medical conditions through Medical Parole.¹

**MEDICAL PAROLE**

**I. ELIGIBILITY**

Medical Condition - To be eligible for Medical Parole, a prisoner must have one of the following:

- A serious medical condition, defined as an injury, illness, disease, physiologic, or psychological condition or disorder that poses an immediate risk to the prisoner’s health or life and requires high-risk or highly complex medical intervention or intensive or high-needs or specialized care.²

  - The Department of Corrections and Rehabilitation (Department) provides the following examples of serious medical conditions: (1) stroke, heart attack, aggressive or advanced stage forms of cancer or medical condition that requires long-term hospitalization, nursing home, or hospice care and (2) a mental illness that causes the prisoner to be unable to provide for essential needs and requires long-term hospitalization, nursing home, or group home placement.³

- A terminal medical condition, defined as a serious medical condition with a prognosis that “death is likely and imminent.”⁴

Exclusions - Any prisoner with a serious or terminal medical condition can apply for Medical Parole. No specific categories of prisoners are excluded.⁵

**II. APPLICATION/REFERRAL**

All requests for Medical Parole must go to, or start with, a Department “medical provider.” The medical provider then submits a request for Medical Parole review to the North Dakota Parole Board (Board) clerk.⁶

**III. DOCUMENTATION AND ASSESSMENT**

The Medical Parole request must detail the prisoner’s serious or terminal medical condition as diagnosed by a Department medical provider, and include written documentation summarizing the prisoner’s condition(s), recommended course of care and treatment, and prognosis.⁷
**IV. DECISION-MAKING PROCESS**

**Decision Maker** - The North Dakota Parole Board is the sole authority for all matters relating to Medical Parole review and action.8

**Decision Process** - After the Board clerk receives a request for Medical Parole, he or she consults with the Board chair to decide whether to (1) place the case on the next available Board meeting docket or (2) schedule a “special meeting” to review the case.9

- **Notice** - The Board’s notice rules, which appear to apply to Medical Parole requests, state that “registered victims” must be notified of Board proceedings.10 Victims may provide information to the Board in person, in writing, or “other approved medium deemed necessary and appropriate.”11

- **Scheduling** - The Board rules do not include any specific, expedited timelines for Medical Parole requests, and it is unclear if the usual docket rules apply.12

- **Meetings** - The Board rules state that during the course of the meetings, it may interview the prisoner or conduct a review of the appropriate documents without an interview: “Granting or not granting an interview should not constitute a negative recommendation for relief.”13 It is not clear from the Board rules if the usual information it considers for “general” parole cases (e.g., social history, criminal record, circumstances of the offense) are considered in Medical Parole cases.14

- **Decisions** - The Board is directed to record all of its actions and to provide each prisoner with a written order reflecting its decision.15 If the Board denies Medical Parole, at least one reason for the denial must be listed in the “Order Denying Parole.”16

**Conditions** - If Medical Parole is granted, the Board establishes a release date and the terms and conditions of parole in a “Parole Agreement.”17

- The clerk may make changes to a parole release date of 30 days or less “for cause,” such as when there is a lack of bed space at a facility in which the individual is required to reside as a condition of parole.18

- The clerk may also make “technical changes” to the terms of parole, unless otherwise prohibited by the Board. Examples of reasons to make changes include when a facility will not accept the individual for placement.19

**V. POST-DECISION**

**Denials and Appeal Rights** - All Board decisions are final.20

**Supervision** - Each medical parolee has a supervising parole officer. He or she must “abide by” any reasonable requests of the parole officer that “assists the parolee with his or her rehabilitation, and may reasonably protect the safety of the community.”21
Revocation/Termination -

- Prisoners released on Medical Parole will remain under the Board’s jurisdiction until “the expiration of the maximum term or terms of imprisonment for which the prisoner was sentenced, less any sentence reduction the prisoner has received.”

- Although the Board rules include guidance on general parole violations and revocation, there are no rules related to Medical Parole (such as possible revocation if the parolee’s medical condition improves).

VI. REPORTING/STATISTICS

The Board is not required to report on the number of Medical Parole requests it considers each year, or the number of requests granted and denied. As of the publication of this report, there is no publicly available data on the number of prisoners granted Medical Parole.

NOTES

1 N.D. Cent. Code § 12-59-08. The Criminal Justice Reinvestment Act (House Bill 1041) was signed into law by Gov. Doug Burgum on April 21, 2017, creating a Medical Parole program that replaces the rarely used “emergency parole.”

2 North Dakota Department of Corrections and Rehabilitation, Directive/Policy/Procedure (DOCR Policy) 1A-13, § 3.K.

3 Id.

4 Id. at § 3.T.

5 The statute specifically states that eligible prisoners include “an inmate whose sentence is subject to sections 12.1-32-02.1 [Mandatory Prison Terms for Armed Offenders] and 12.1-32-09.1 [Sentencing of Violent Officers], and an inmate sentenced under subsection 1 of section 12.1-32-01 [Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed].” N.D. Cent. Code § 12-59-08.

6 DOCR Policy 1A-13, § 5.F.3.

7 Id.

8 Id.

9 Id.

10 DOCR Policy 1A-13, § 5.C.1.

11 Id.

12 See DOCR Policy 1A-13, §§ 5.F.1, 5.F.5, and 5.F.6. Note that the rules also say that when there is “cause,” the clerk may place cases on an earlier review - but “cause” is not defined in the rules. DOCR Policy 1A-13, § 5.F.4.

13 DOCR Policy 1A-13, § 5.F.7.

14 Id. at 5.F.8.

15 Id. at 5.F.10.

16 Id. at 5.F.10.a.

17 Id. at 5.F.10.b.

18 Id. at 5.F.10.b (1).

19 Id. at 5.F.10.b (2).

20 Id. at 5.F.3.

21 Id. at 5.F.10.b.

22 N.D. Cent. Code § 12-59-08.

23 See DOCR Policy 1A-13, § 5.H.