South Carolina state law provides compassionate release to eligible prisoners through Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates.¹

South Carolina’s Board of Paroles and Pardons (Board) policy references two additional forms of compassionate release but provides very little information on them: Parole for Medical Reasons, also covering prisoners who are terminally ill, and Special Parole of Veterans for Psychiatric Treatment. In “limited circumstances,” the Director of the Department of Corrections may also grant a Furlough/Extension of Confinement to prisoners who are terminally ill or who need medical treatment not provided in prison.

PAROLE FOR TERMINALLY ILL, GEROATRIC, OR PERMANENTLY DISABLED INMATES

I. ELIGIBILITY

Medical Condition/Age - To be eligible for early release under these provisions, prisoners must fall into one of the following categories:

- **Permanently incapacitated**, defined as no longer posing a public safety risk because of a medical condition that is not terminal but that renders the prisoner permanently and irreversibly incapacitated, as determined by a physician, and which requires immediate and long-term residential care.²

- **Terminally ill** means that the prisoner has, as determined by a licensed physician, an incurable condition caused by illness or disease that will likely produce death within two years and that is so debilitating the prisoner does not pose a public safety risk.³ Note that the condition must have been unknown at the time of sentencing or, since the time of sentencing, has progressed to render the prisoner terminally ill.⁴

- **Geriatric**, defined as being age 70 or older, and suffering from a chronic infirmity, illness, or disease related to aging, that has progressed and is incapacitating, as determined by a licensed physician, to the extent that he or she does not pose a public safety risk.⁵

Exclusions - Only prisoners who are eligible for “general” parole can be granted Parole for Terminally Ill Geriatric, or Permanently Disabled Inmates. Based on a legal memo from the South Carolina Attorney General’s office, this requirement means individuals sentenced to death or to life without the possibility of parole are excluded from consideration.⁶
II. APPLICATION/REFERRAL

To start the process, the Director of the Department of Corrections (Department) files a petition asking that a prisoner who is disabled/incapacitated, terminally ill, or geriatric be considered for Parole.7

III. DOCUMENTATION AND ASSESSMENT

Other than the statutory requirement that the prisoner’s condition must be “determined by a licensed physician,”8 there is no additional information provided in the law or agency rules regarding required documentation or the assessment process before a petition is submitted to the Board for a decision.

IV. DECISION-MAKING PROCESS

Decision Maker - The full South Carolina Board of Paroles and Pardons is responsible for ordering the release of prisoners who meet the eligibility guidelines.9

Decision Process - The Board’s parole orders must include “findings of fact” that support a legal and medical conclusion that a prisoner is permanently incapacitated, terminally ill, geriatric (or a combination of these conditions) and does not pose a threat to him or herself or society.10

- There is no information in the statute or Board rules specific to hearings for prisoners petitioning for Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates.11

Conditions - The Board’s parole order includes conditions for the individual’s supervision, participation in, and removal from the program.12

- Prisoners must reside in an “approved residence.”13 However, there are no examples given in state law or Board policy as to what types of environments will be approved.

V. POST-DECISION

Denials and Appeal Rights - Neither the law nor the Board rules reference anything specific about denials or appeal rights of prisoners requesting Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates.14

Supervision - Parolees are under the supervision of the Department of Probation, Parole and Pardon Services15 and the Board’s parole order includes the supervision requirements.16 There are annual reviews of parolees’ status to ensure that they remain eligible for parole.17

Revocation/Termination - If the parolee is no longer eligible to participate in parole under these rules, a probation agent will issue a warrant or citation charging a violation of parole, and the Board will determine if parole must be revoked.18
VI. REPORTING/STATISTICS

According to a 2016 report to the South Carolina Sentencing Reform Oversight Committee, the Department had only referred 28 prisoners for terminally ill, geriatric, or permanently disabled prisoners since the law went into effect in 2011. Of those 28 individuals:

- Twelve were granted “conditional parole” (Six were released and are still under supervision, three had their parole rescinded but have since been released, and three were released on parole and are no longer under supervision - two of these because they died.);
- Nine were rejected for various reasons (e.g., having “no parole” offenses and not meeting the medical criteria);
- Two prisoners died prior to their cases being heard; and
- Five had hearings pending.

PAROLE FOR MEDICAL REASONS

The Board of Paroles and Pardons Policy and Procedure Manual (Board Manual) includes a section entitled Parole for Medical Reasons, defined as a parole option for prisoners who are terminally ill.

- Note that this policy is in addition to the Board Manual section on Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates. It’s not clear why there are two separate, but similar, parole rules for prisoners who are terminally ill.

The Parole for Medical Reasons policy is very short and actually contradicts a key element of the Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates law: It says that “terminally ill” means the prisoner is not expected to live for more than one year. The definition of “terminally ill” in the Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates rules state that the prisoner is not expected to live for more than two years.

SPECIAL PAROLE OF VETERANS FOR PSYCHIATRIC TREATMENT

The Board Manual also includes a section entitled Special Parole of Veterans for Psychiatric Treatment. Under this rule, the Board can parole any prisoner who is a veteran, and otherwise eligible for parole, unless his or her mental condition “is deemed by the Board to be such that he or she should not be released from confinement.” Prisoners identified as such can be released on “special parole” to the custody of the Department of Veterans Affairs for psychiatric treatment or released on parole to “the custody of a committee appointed to commit such offenders to a Veterans Administration Hospital.” There is no
other information in the policy manual on the decision process or administration of this parole program.

**FURLOUGH/EXTENSION OF CONFINEMENT**

Where there is “reasonable cause” to believe that a prisoner will “honor [the Director’s] trust,” the Director of the Department of Corrections may grant a prisoner a furlough for medical reasons, also referred to as “extending the limits of confinement,” in the following circumstances:

- For a prescribed period of time to obtain medical services not otherwise available in the prison; and
- For an indefinite length of time if the prisoner is terminally ill.

A prisoner convicted of a violent crime is not allowed to participate in the furlough program “in the community where the offense was committed” unless all of the following individuals/entities recommend to the Director, in writing, that he or she be allowed to participate: the victim of the crime (or, if the victim has died, his or her relatives), the law enforcement agency which employed the arresting officer, and the attorney in whose circuit

**NOTES**

1 S.C. Code Ann. § 24-21-715 (2016). According to the legislative history, this law went into effect in January 2011. The South Carolina Board of Paroles and Pardons Policy and Procedure Manual has a section entitled “Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates (Part II, Section D.4).” However, it is a verbatim copy of the statute and does not provide any additional information or details.

2 S.C. Code Ann. § 24-21-715 (A) (3). Note that although the word “disabled” is in the title of the law, the text of that law uses the word “incapacitated.”

3 Id. at (A) (1).

4 Id.

5 Id. at (A) (2).


8 Id. at (A) (1) - (3).

9 Id. at (B).

10 Id. at (C).

11 The general parole hearing rules are in the Board of Paroles and Pardons Policy and Procedure Manual (Board Manual) (2015), Part II, § A, but it is not clear that these rules apply to prisoners applying for Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates.


13 Id. at (D).

14 Note that the rules for denials of parole in general are available in the Board Manual, Part II, § E. It is not clear if those rules apply to prisoners petitioning for Parole for Terminally Ill, Geriatric, or Permanently Disabled Inmates.


16 Id. at (C).

17 Id. at (E).

18 Id.; see also Board Manual, Part III, § A.

19 South Carolina Department of Probation, Parole and Pardon Services, Report to the Sentencing Reform
Oversight Committee (Nov. 2016).
20 Id. at 20.
21 Id.
22 Id.
23 Id.
24 Id.
26 Id. at § D.5.
27 Id.
28 Id.
29 S.C. Code Ann. § 24-3-210 (A) (3).
30 Id. at (B).
31 Id. at (D).