

Wyoming provides compassionate release to eligible incarcerated individuals who have serious medical conditions or terminal illnesses or who are older and have deteriorating health through **Medical Parole**.<sup>1</sup>

## **MEDICAL PAROLE**

### **I. ELIGIBILITY**

**Medical Condition/Age** – To be eligible for Medical Parole, an incarcerated individual must have one of the following conditions:

- A seriously incapacitating medical need requiring treatment that cannot reasonably be provided while confined in a state correctional facility;<sup>2</sup>
- Permanent physical incapacitation resulting from an irreversible injury, disease, or illness that (1) makes significant physical activity impossible, (2) results in dependency on permanent medical intervention for survival, or (3) results in confinement to a bed, wheelchair, or other assistive device leading to significantly limited mobility;<sup>3</sup>
- A terminal illness predicted to result in death within 12 months;<sup>4</sup> or
- Incapacitation because of age, with deteriorating physical or mental health that substantially diminishes the individual's ability to provide self-care in a correctional facility.<sup>5</sup>

**Exclusions** – An individual is not eligible for Medical Parole if serving a death sentence or life imprisonment without parole.<sup>6</sup>

### **II. APPLICATION/REFERRAL**

The Department of Corrections (Department) does not appear to have a formal Medical Parole application or application process.

- A 2017 legislative report states that Department staff generally initiate Medical Parole requests.<sup>7</sup>
- The Wyoming Board of Parole (Board) rules state that an individual's treating physician can make a Medical Parole request if it includes written certification that the individual meets one of the above medical conditions.<sup>8</sup>

### III. DOCUMENTATION AND ASSESSMENT

According to information the Department provided to the Wyoming Legislature, the following tasks are usually carried out when processing a Medical Parole case:<sup>9</sup>

- The incarcerated individual's assigned caseworker submits a request for Medical Parole consideration to the appropriate housing manager. If approved, a "multidisciplinary team" (including medical personnel, a caseworker and case team leader, the unit and/or housing manager, and any other appropriate staff) meets to discuss the request.<sup>10</sup>
- If the team supports the Medical Parole request, the unit manager sends an email to the health services administrator asking for a letter from the incarcerated individual's treating physician supporting the request.<sup>11</sup>
- The caseworker completes a "parole summary" outlining the person's activities while incarcerated (including education and/or work programs), disciplinary violations, employment history, criminal history, and length of sentence.<sup>12</sup>
- The parole summary and physician's letter are forwarded to the Board for consideration.<sup>13</sup>

### IV. DECISION-MAKING PROCESS

**Decision-Maker** – The Wyoming Board of Parole decides all Medical Parole decisions.

#### Decision Process

- Notice – If an individual is otherwise ineligible for parole, the Board must give notice of a Medical Parole hearing to the prosecuting attorney and sentencing court and give them the opportunity to provide input.<sup>14</sup>
- Documentation – At the Board's request, a licensed physician can make an independent medical evaluation, which is provided to the Board and paid for by the Department.<sup>15</sup>
- Hearings – The full Board consists of seven members and approval of Medical Parole requests must be made by a two-thirds majority vote.<sup>16</sup>
  - Medical Parole hearings are conducted by at least three members of the Board. The other Board members required for the decision (i.e., the two-thirds majority vote) must review the written evidence and the audio of the hearings before making their decisions either by phone or in writing.<sup>17</sup>

- The Board will only grant Medical Parole if it can determine that an individual meets the medical criteria and (1) is unlikely to violate the law if released; (2) has community living arrangements in place; (3) has sufficient resources available to meet living expenses and medical needs; and (4) does not have a medical condition that would endanger public health, safety, or welfare if released or has a proposed living arrangement that protects the public from “any threat of harm the individual’s medical condition may pose.”<sup>18</sup>

The Board must make its final decision no more than 15 days after the date of the hearing unless the case is postponed so that additional information can be obtained.<sup>19</sup> The Board must make its Medical Parole findings and determinations on the record.<sup>20</sup>

**Conditions and Pre-Release Planning** – The Board can impose any terms and conditions of parole that it considers necessary, including a requirement that the formerly incarcerated individual submit medical progress reports at least every six months.<sup>21</sup>

## **V. POST-DECISION**

**Denials and Appeal Rights** – The Medical Parole statute and Board of Parole rules do not provide any information on appealing a denial of Medical Parole.

**Revocation/Termination** – The Board can revoke Medical Parole if (1) the individual violates a condition of parole or (2) the medical condition no longer exists or has improved to the extent that the justification for Medical Parole no longer exists.<sup>22</sup>

## **VI. REPORTING/STATISTICS**

Wyoming law does not require the Board to report how many individuals have received Medical Parole. In response to a request for information from FAMM, the Board of Parole provided the following statistics:<sup>23</sup>

- In 2019, three individuals requested Medical Parole. Of those, one person was granted Medical Parole, one person was denied, and one person died while the request was being reviewed.
- In 2020, two individuals requested Medical Parole. Of those, one was granted and one was denied.

In 2017, the Wyoming Legislative Service Office reported that the Board had granted only five Medical Parole cases in 10 years (2007 to 2017).<sup>24</sup>

## **WYOMING COMPASSIONATE RELEASE** **PRIMARY LEGAL SOURCES**

### **MEDICAL PAROLE**

#### **Statute**

Wyoming Statutes, § 7-13-424 (2020), available through the Wyoming Legislature, <https://wyoleg.gov/statutes/compress/title07.pdf>.

#### **Agency Policy**

Wyoming Board of Parole, Policy and Procedure Manual (2018), Medical Parole Chapter, <https://drive.google.com/file/d/1wkXChfYsBtG7RXzGkU-grlHLMgtl6oEA/view>.

## **NOTES**

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\* *Id.* means see prior note.

<sup>1</sup> Wy. Stat. Ann. § 7-13-424; Wyoming Board of Parole, Policy and Procedure Manual, Parole: Medical Parole (Board Manual, Parole: Medical Parole).

<sup>2</sup> Wy. Stat. Ann. § 7-13-424 (a) (i); Board Manual, Parole: Medical Parole, § II (A) (1).

<sup>3</sup> Wy. Stat. Ann. § 7-13-424 (a) (iii); Board Manual, Parole: Medical Parole, § II (A) (3).

<sup>4</sup> Wy. Stat. Ann. § 7-13-424 (a) (iv); Board Manual, Parole: Medical Parole, § II (A) (4).

<sup>5</sup> Wy. Stat. Ann. § 7-13-424 (a) (ii); Board Manual, Parole: Medical Parole, § II (A) (2).

<sup>6</sup> Wy. Stat. Ann. § 7-13-424 (a); Board Manual, Parole: Medical Parole, § I (B). Note that the Board Manual indicates the Board can recommend individuals for commutation by the Governor (to achieve parole eligibility) if they meet the medical criteria but are excluded from consideration because of the nature of their sentence or because they do not meet one of the “decision factors.” Board Manual, Parole: Medical Parole, §§ I (C) and II (H).

<sup>7</sup> Kelley Shepp, Wyoming Legislative Service Office Research Memo (LSO Research Memo), June 23, 2017, 5, <http://legisweb.state.wy.us/InterimCommittee/2017/SMA-0712APPENDIXO.pdf>.

<sup>8</sup> Board Manual, Parole: Medical Parole, § II (A).

<sup>9</sup> LSO Research Memo, at 5.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Wy. Stat. Ann. § 7-13-424 (d); Board Manual, Parole: Medical Parole, § II (D).

<sup>15</sup> Wy. Stat. Ann. § 7-13-424 (c); Board Manual, Parole: Medical Parole, § II (C).

<sup>16</sup> Board Manual, Parole: Medical Parole, § II (E).

<sup>17</sup> Id.

<sup>18</sup> Wy. Stat. Ann. §§ 7-13-424 (b) (i) through (iv); Board Manual, Parole: Medical Parole, §§ II (B) (1) through B (4).

<sup>19</sup> Board Manual, Parole: Medical Parole, § II (E).

<sup>20</sup> Id. at § II (F).

<sup>21</sup> Wy. Stat. Ann. § 7-13-424 (e); Board Manual, Parole: Medical Parole, § II (G).

<sup>22</sup> Id.

<sup>23</sup> Email from Chelsea Cortez, Wyoming Board of Parole, to FAMM (May 26, 2021) (on file with FAMM, Office of the General Counsel).

<sup>24</sup> LSO Research Memo, at 4.