



Compassionate Release Report Card • October 2022

North Carolina

Overall Grade for
North Carolina

Total Grade

72
/100

Letter Grade

C-

Program Grades

	Total Grade	Letter Grade
Medical Release	75/100	C
Extension of the Limits of Confinement	68/100	D+

Find all compassionate release resources on FAMM's site →

famm.org



Medical Release

Total Grade

75 /100

Letter Grade

C

Eligibility Criteria

14/30

6/10 Clearly set out with understandable and measurable standards.

3/10 Generous or not unduly restrictive.

5/10 No categorical exclusions/everyone is eligible for consideration.

× Extra credit: Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

8/10

3/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

5/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

× Extra credit: Expedited time frames exist for terminal cases. **0**

Engaging the Process

15/15

5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

5/5 Incarcerated people, their loved ones, and advocates can initiate the process.

5/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

15/10

5/5 Agencies provide comprehensive release planning.

+ Extra credit: Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **+5**

5/5 Release planning begins early in the process.

Agency Policy Design

8/15

3/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

3/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

2/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

10/10

5/5 Agencies are obliged to gather, compile, and report release data to legislature.

5/5 Reporting is made available to the public via annual reports or other means.

Right to Counsel and Appeals

5/10

0/5 UTD* Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

5/5 Individuals have the right to reapply should conditions change.

✘ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

The Numbers

In 2019, the Parole Commission granted Medical Release to seven people. Two died before the Commission could act. In 2020, the Commission granted 14 of the 15 requests it received.

High and Low Marks

HIGH MARKS

- North Carolina's Medical Release earned top grades for **engaging the process**. The program invites a variety of people and Department of Public Safety personnel to initiate the application process. Commendably, it obliges facilities that house people with acute conditions or who need long-term care to submit a list of people potentially eligible for Medical Release every quarter. It also provides that facilities may make referrals more frequently for people found to be terminally ill.
- Medical Release **procedures** include timelines within which to complete the various stages of documentation, assessment, and decision-making.
- **Release planning** is among the best in the nation. It begins early, is comprehensive, and includes helping incarcerated individuals with applying for public benefits. Other features, such as ensuring that residence investigations are conducted within days of referral, are covered in Department policy as are details about how to transport an individual to their release residence. It is clear the state put a lot of thought into designing this critical component.
- The program also excels at **data collection** and **reporting**. The Department and Parole Commission must make annual data reports to the legislature, and they publish that information publicly.

LOW MARKS

- Medical Release **eligibility criteria** are ungenerous, not well-defined in some aspects, and suffer from a number of categorical exclusions. For example, a person must be within six months of dying and so debilitated by the condition that the person does not pose a risk to the public. Individuals 65 and older must be suffering from a chronic age-related condition and be so incapacitated from it that they pose no threat to public safety. In addition, the criteria exclude a number of people due to the nature of their conviction.
- The Department has a very comprehensive and clear **policy** guiding staff and officials involved in the Medical Release process, but the program received only half marks because, in contrast, the Parole Commission has a very limited policy governing its important role in Medical Release.

Extension of the Limits of Confinement

Total Grade

68 /100

Letter Grade

D+

Eligibility Criteria

13/30

5/10 Clearly set out with understandable and measurable standards.

3/10 Generous or not unduly restrictive.

5/10 No categorical exclusions/everyone is eligible for consideration.

x Extra credit: Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

13/10

3/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

5/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

+ Extra credit: Expedited time frames exist for terminal cases. **+5**

Engaging the Process

15/15

5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

5/5 Incarcerated people, their loved ones, and advocates can initiate the process.

5/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

7/10

2/5 Agencies provide comprehensive release planning.

x Extra credit: Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**

5/5 Release planning begins early in the process.

Agency Policy Design

15/15

5/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

5/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

5/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

0/10

0/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 Reporting is made available to the public via annual reports or other means.

Right to Counsel and Appeals

5/10

5/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 UTD* Individuals have the right to reapply should conditions change.

✘ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

The Numbers

The Department of Public Safety does not publish statistics, and it did not respond to FAMM's request for Extension of the Limits of Confinement data for 2019 and 2020.

High and Low Marks

HIGH MARKS

- Besides permitting a wide range of people – including incarcerated people, their supporters, corrections staff, and officials – to initiate the application process, the statute governing Extension of the Limits of Confinement obliges the Department of Public Safety Medical Director to notify the Department Secretary as soon as the Director has identified a person who is terminally ill or permanently and totally disabled, thus **initiating the process**. Very few states include such a commendable requirement.
- The program's **policy** is thorough, straightforward, and for the most part not burdensome (though an initial medical review strikes us as time-consuming and unnecessary) as well as clear about the steps to take and standards to apply.
- The grade for program **procedures** benefited because of some deadline setting for steps along the way, and FAMM gave it a boost of **extra credit** because notification and processing of terminal cases must take place within strict time frames.

LOW MARKS

- North Carolina's Extension of Confinement **eligibility criteria** leave a lot to be desired. The standards are clear and for the most part measurable but so limited that FAMM cannot imagine that more than a handful of people are eligible. To be considered, a person must be either (1) terminally ill, within six months of death, physically incapacitated, and so debilitated it is highly unlikely they can pose a significant public safety risk or (2) permanently and totally disabled such that they are permanently incapacitated. Moreover, only people in minimum custody status can apply.
- **Release planning** could be better. While the Department must secure pre-certification for hospice placement and must "investigate" the availability of community resources, it is unclear how much support the Department provides to ensure an eligible individual can be released to hospice or long-term care. A terminally ill individual is denied release if the Department fails to pre-certify a hospice. We cannot tell from the policy the extent to which the Department explores alternatives when it cannot certify the identified hospice program.