



Compassionate Release Report Card • October 2022

# New Hampshire

Overall Grade for  
New Hampshire

Total Grade

**39**  
/100

Letter Grade

**F**

Program Grades

**Medical Parole**

Total Grade

**39/100**

Letter Grade

**F**

Find all compassionate release resources on FAMM's site →

famm.org



# Medical Parole

Total Grade

**39** /100

Letter Grade

**F**

## Eligibility Criteria

18/30

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

**5/10** Generous or not unduly restrictive.

**8/10** 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

0/10

**0/5 UTD\*** Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

**0/5** 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

5/15

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

**0/5** Incarcerated people, their loved ones, and advocates can initiate the process.

**0/5 UTD\*** 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

5/10

**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. **0**

**0/5** Release planning begins early in the process.

## Agency Policy Design

6/15

**2/5** Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

**2/5** 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

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.

0/10

## Right to Counsel and Appeals

**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**

**0/5** 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**



## Overall Extra Credit

**+5** New Hampshire pays for the cost of Medicaid for individuals on Medical Parole up to the date they would have been eligible for parole other than Medical Parole. FAMM knows of no other state that provides that kind of support.

\* 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 Parole Board is not required to report Medical Parole data and responded to FAMM's request for the number of people granted Medical Parole in 2019 and 2020 by saying that it does not maintain or generate such reports.

## High and Low Marks

### HIGH MARK

- It appears that the Department of Corrections Director of Medical Services is responsible for developing a parole release plan and must attend the Parole Board hearing to answer any questions Board members may have. FAMM considers **release planning support** to be an essential feature of a well-constructed compassionate release program.

### LOW MARKS

- The Medical Parole **eligibility criteria** include undefined terms (people who are debilitated, incapacitated, or incurably ill are eligible, but the state does not define those terms) and hard-to-measure criteria (such as the cost of medical care must be "excessive," but the program does not provide any standard). Lacking clear standards and definitions can mean the Department may overlook people the legislature intended for Medical Parole.
- **Engaging the process:** The Department is solely responsible for identifying and referring to the Parole Board individuals who may qualify for Medical Parole. FAMM could not find any Department policy guiding its role. The Department does not provide any information on who identifies potentially eligible individuals, how they certify the individual's eligibility, or how they petition the Parole Board for the individual's Medical Parole.
- We were unable to locate any policies regarding the Department's role and only found the barest of regulations governing the Parole Board's consideration of individuals referred for Medical Parole. Those deficits earned Medical Parole failing grades for **agency policy design and procedures**.
- New Hampshire does not appear to allow counsel to represent people before the Board for Medical Parole. The rules do not address whether an individual has a right to **reapply** if their condition worsens.