

Louisiana provides compassionate release to eligible incarcerated individuals with serious medical conditions and terminal illnesses through (1) **Medical Parole**,<sup>1</sup> (2) **Medical Treatment Furlough**,<sup>2</sup> and (3) **Compassionate Release**.<sup>3</sup> Louisiana also provides compassionate release to eligible older individuals through **Parole Based on Advanced Age**, a provision in the general parole rules.<sup>4</sup>

## **MEDICAL PAROLE**

### **I. ELIGIBILITY**

**Medical Condition** – To be eligible for Medical Parole, an incarcerated individual must be permanently disabled or terminally ill:<sup>5</sup>

- “Permanently disabled” is defined as being unable to engage in any “substantial gainful activity” because of a medically determinable physical impairment that is expected to be “permanently irreversible” or result in death.<sup>6</sup>
- “Terminally ill” is defined as having a life expectancy of less than one year due to an underlying medical condition.<sup>7</sup>

Note that Louisiana Department of Public Safety and Corrections (Department) policy states that generally an individual will not be considered for Medical Parole if the medical condition was present at the time of sentencing unless the condition has significantly deteriorated since that time.<sup>8</sup> However, that restriction is not referenced in the statute or administrative code.

**Exclusions** – Medical Parole is not available to individuals serving sentences for first- or second-degree murder or to those with a death sentence.<sup>9</sup>

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

The Department is responsible for identifying individuals who may be eligible for Medical Parole and referring them to the Louisiana Committee on Parole.<sup>10</sup>

- Any treating health care practitioner with knowledge of an individual’s terminal illness or permanent disability can initiate the Medical Parole process by completing a *Medical Criteria Screening Form* and submitting it to the Unit Medical Director for consideration.<sup>11</sup> Other facility and Department staff with knowledge of an individual’s medical condition, including wardens and Headquarters’ medical staff, may also ask the Unit Medical Director to review an individual for Medical Parole consideration.<sup>12</sup>

- The Unit Health Authority (or a designee) must identify all incarcerated individuals who meet the medical criteria for Medical Parole and submit a quarterly report to the Chief Nursing Officer identifying those individuals.<sup>13</sup> The Chief Nursing Officer submits a quarterly report to the Department Secretary stating the number of people who meet the Medical Parole medical criteria, the number who were granted Medical Parole, and the number who were declined at any point in the consideration process.<sup>14</sup>

There is no Department information indicating that an incarcerated individual or family member can file an application to start the Medical Parole process.

### III. DOCUMENTATION AND ASSESSMENT

The Warden at each institution appoints a multidisciplinary team to evaluate all Medical Parole requests.<sup>15</sup>

**Evaluation and Recommendation: Unit Medical Director** – The Unit Medical Director (or a designee) evaluates each *Medical Criteria Screening Form* and, based only on the individual’s medical information, decides whether the person meets the medical eligibility criteria for Medical Parole consideration.<sup>16</sup>

- If the individual **meets** the medical criteria, the Unit Medical Director recommends the person be considered for Medical Parole, completes the appropriate section of the *Recommendation for Medical Parole or Medical Treatment Furlough* form, and submits it to the Unit Warden for review.<sup>17</sup>
- If the Unit Medical Director declines to recommend the incarcerated individual for Medical Parole, a “notification of declination” is sent to the Unit Warden and the Department’s Chief Nursing Officer, and the *Medical Criteria Screening Form* is filed in the person’s medical record.<sup>18</sup>

**Evaluation and Recommendation: Warden** – The Unit Warden is responsible for evaluating every recommendation for Medical Parole,<sup>19</sup> completing the *Recommendation for Medical Parole or Medical Treatment Furlough* form, and providing an opinion as to whether the individual would constitute a danger to self or society if released.<sup>20</sup>

- If, based on that evaluation, the Unit Warden recommends the individual be considered for Medical Parole, the *Recommendation for Medical Parole or Medical Treatment Furlough* form is sent to the Department’s Chief Nursing Officer for processing.<sup>21</sup>
- If the Unit Warden declines to recommend the individual, a notice is sent to the Department’s Chief Nursing Officer and the paperwork is filed in the person’s medical record.<sup>22</sup>

**Evaluation and Recommendation: Department Medical/Mental Health Director –**

The Department’s Medical/Mental Health Director evaluates every *Recommendation for Medical Parole or Medical Treatment Furlough* form to ensure it complies with applicable state laws and agency policies<sup>23</sup> and completes the form by (1) recommending the individual for Medical Parole and submitting it to the Department Secretary for review<sup>24</sup> or (2) declining to recommend the individual for Medical Parole consideration and sending a notification of the decision to the Unit Warden and the Department’s Chief Nursing Officer.<sup>25</sup>

**Evaluation and Recommendation: Secretary –** The Secretary evaluates every *Recommendation for Medical Parole or Medical Treatment Furlough* form received<sup>26</sup> and completes the form by (1) recommending the incarcerated individual for Medical Parole and forwarding the case to the Louisiana Committee on Parole (Committee);<sup>27</sup> (2) requesting additional information prior to making a decision;<sup>28</sup> or (3) declining to recommend the individual for Medical Parole consideration and sending a notice of the decision to the Warden and the Department’s Chief Nursing Officer.<sup>29</sup>

#### **IV. DECISION-MAKING PROCESS**

**Decision-Maker –** The authority to grant Medical Parole rests solely with the Louisiana Board of Pardons’ Committee on Parole.<sup>30</sup>

##### **Decision-Making Process**

- When considering an individual for Medical Parole, the Committee on Parole may require that the Department produce additional medical evidence or that the individual have additional medical exams.<sup>31</sup>
- Upon referral by the Department, the Committee will schedule an individual for a Medical Parole hearing.<sup>32</sup> Note that if an individual is unable to appear before the Board due to the medical condition, a medical professional can provide information to the Committee about the person’s medical condition.<sup>33</sup>
- The Committee determines the risk to public safety and will grant Medical Parole only after determining that the individual does not pose a high risk to public safety.<sup>34</sup>

**Decision –** Based on all the documentation and information presented, the Committee decides whether to grant or deny an individual’s Medical Parole request.<sup>35</sup>

- **Conditions –** The Committee can establish Medical Parole conditions if necessary,<sup>36</sup> including conditions related to monitoring the individual’s physical condition and ensuring there is no danger to society.<sup>37</sup>

- Discharge Planning – The Unit Health Authority must ensure that discharge planning begins before Medical Parole is approved and is completed “immediately” when the Committee approves release.<sup>38</sup> Planning includes a residence plan (either a health care facility or home setting)<sup>39</sup> and enrolling the individual in Medicaid or another health insurance plan prior to release.<sup>40</sup>

## **V. POST-DECISION**

**Supervision** – The Department’s Division of Probation and Parole is responsible for monitoring all individuals released on Medical Parole.<sup>41</sup> Supervision consists of periodic medical evaluations at intervals set by the Committee at the time of the individual’s release.<sup>42</sup>

**Effect of Medical Parole Request on Parole or Other Release Eligibility** – Consideration for Medical Parole is in addition to any other parole for which an individual may be eligible.<sup>43</sup>

### **Denials and Appeal Rights**

- If the Committee denies Medical Parole, the individual may apply for a rehearing within the usual time frames applicable to general parole.<sup>44</sup>
- If a Medical Parole request is declined at other steps in the process – for example, if the Department Secretary did not forward the Medical Parole request to the Committee – an incarcerated individual’s request to have a decision reconsidered requires starting the process again at the Unit level.<sup>45</sup>

**Revocation/Termination** – The parole term of a person released on Medical Parole is for the remainder of the sentence, without a reduction in the sentence for good behavior.<sup>46</sup>

- For individuals released on Medical Parole, if their conditions improve such that they would not be eligible for Medical Parole, the Committee can order a return to Department custody for a revocation hearing.<sup>47</sup>
- If Medical Parole is revoked due to an improvement in the medical condition, the individual resumes serving the balance of the sentence with credit given for the duration of the Medical Parole.<sup>48</sup>
- The Committee can also revoke Medical Parole for violations of any conditions it establishes.<sup>49</sup>

## VI. REPORTING/STATISTICS

The Louisiana Board of Pardons and Committee on Parole reported the following Medical Parole statistics in its 2020 annual report:

- In 2019, the Committee on Parole considered 18 Medical Parole requests and granted release to 13 individuals.<sup>50</sup>
- In 2020, the Committee on Parole considered eight Medical Parole requests and granted release to seven individuals.<sup>51</sup>

## MEDICAL TREATMENT FURLOUGH

The Medical Treatment Furlough program allows release of incarcerated individuals with serious medical conditions to health care facilities (such as hospitals, nursing homes, or other licensed medical facilities) for medical care and treatment.<sup>52</sup>

### I. ELIGIBILITY

**Medical Condition** – Individuals may be considered for Medical Treatment Furlough if they are ineligible for Medical Parole and have limited mobility, meaning they are (1) unable to perform activities of daily living (such as bathing, dressing, transferring, toileting, and eating) without help or (2) totally confined to a bed or chair. That includes individuals who are in a prolonged coma or who need medical ventilation.<sup>53</sup>

- Note that Department policy states that generally an individual will not be considered for Medical Treatment Furlough if the medical condition was present at the time of sentencing **unless** the condition has significantly deteriorated since that time.<sup>54</sup> However, that restriction is not referenced in the statute.

**Exclusions** – Individuals who have a death sentence or who are serving a sentence for first-degree murder are not eligible for Medical Treatment Furlough.<sup>55</sup>

### II. APPLICATION/REFERRAL

The Department is responsible for identifying individuals who may be eligible for Medical Treatment Furlough and referring them to the Committee on Parole.<sup>56</sup>

- Any treating health care practitioner with knowledge of an individual's limited mobility may initiate the Medical Treatment Furlough process by completing a *Medical Criteria Screening Form* and submitting it to the Unit Medical Director for consideration.<sup>57</sup> Other facility and Department staff with knowledge of an

individual's medical condition, including wardens and Headquarters' medical staff, may also ask the Unit Medical Director to review an individual for Medical Treatment Furlough consideration.<sup>58</sup>

- Department rules state that the Unit Health Authority (or a designee) must identify all incarcerated individuals who meet the medical criteria for Medical Treatment Furlough consideration and submit a quarterly report to the Chief Nursing Officer identifying those individuals.<sup>59</sup> The Chief Nursing Officer submits a quarterly report to the Department Secretary stating the number of individuals who meet the Medical Treatment Furlough medical criteria, the number who were granted Medical Treatment Furlough, and the number who were declined at any point in the consideration process.<sup>60</sup>

There is no Department information indicating that an incarcerated individual or family member can file an application to start the Medical Treatment Furlough process.

### **III. DOCUMENTATION AND ASSESSMENT**

The Warden at each institution appoints a multidisciplinary team to evaluate all Medical Treatment Furlough requests.<sup>61</sup>

**Evaluation and Recommendation: Unit Medical Director** – The Unit Medical Director (or a designee) evaluates each *Medical Criteria Screening Form* received and, based only on the individual's medical information, decides whether the person meets the medical eligibility criteria for Medical Treatment Furlough consideration.<sup>62</sup>

- If the Unit Medical Director finds that the individual **meets** the medical criteria and recommends the person be considered for Medical Treatment Furlough, the appropriate section of the *Recommendation for Medical Parole or Medical Treatment Furlough* form is completed and submitted to the Unit Warden for review.<sup>63</sup>
- If the Unit Medical Director declines to recommend the incarcerated individual for Medical Treatment Furlough, a "notification of declination" is sent to the Unit Warden and the Department's Chief Nursing Officer, and the *Medical Criteria Screening Form* is filed in the person's medical record.<sup>64</sup>

**Evaluation and Recommendation: Warden** – The Unit Warden is responsible for evaluating every recommendation for Medical Treatment Furlough<sup>65</sup> and completing the *Recommendation for Medical Parole or Medical Treatment Furlough* and providing an opinion as to whether the individual would constitute a danger to self or society if released.<sup>66</sup>

- If, based on this evaluation, the Unit Warden recommends the individual for Medical Treatment Furlough, the *Recommendation for Medical Parole or*

*Medical Treatment Furlough* form is sent to the Department's Chief Nursing Officer for processing.<sup>67</sup>

- If the Unit Warden declines to recommend the individual, a notice is sent to the Department's Chief Nursing Officer and the paperwork is filed in the person's medical record.<sup>68</sup>

**Evaluation and Recommendation: Department Medical/Mental Health Director** – The Department's Medical/Mental Health Director evaluates every *Recommendation for Medical Parole or Medical Treatment Furlough* form received to ensure it complies with applicable law and agency policies<sup>69</sup> and completes the form by (1) recommending the individual for Medical Treatment Furlough and submitting it to the Department Secretary for review<sup>70</sup> or (2) declining to recommend the individual for Medical Treatment Furlough consideration and sending a notification of the decision to the Warden and the Department's Chief Nursing Officer.<sup>71</sup>

**Evaluation and Recommendation: Secretary** – The Secretary evaluates every *Recommendation for Medical Parole or Medical Treatment Furlough* form received<sup>72</sup> and completes the form by (1) recommending the incarcerated individual for Medical Treatment Furlough consideration and forwarding the case to the Louisiana Committee on Parole (Committee)<sup>73</sup> or (2) declining to recommend the individual for Medical Treatment Furlough consideration and sending a notice of the decision to the Warden and the Department's Chief Nursing Officer.<sup>74</sup>

#### **IV. DECISION-MAKING PROCESS**

**Decision-Maker** – The authority to grant Medical Treatment Furlough rests solely with the Louisiana Committee on Parole.<sup>75</sup>

##### **Decision-Making Process**

- After receiving a referral from the Department, the Committee on Parole will schedule an individual for a Medical Treatment Furlough hearing.<sup>76</sup> Note that if an individual is unable to appear before the Board due to a medical condition, a medical professional may appear before the Board to provide information about the person's medical condition.<sup>77</sup>
- When considering an individual for Medical Treatment Furlough, the Committee on Parole may require that the Department produce additional medical evidence or that the individual have additional medical exams.<sup>78</sup>
- The Committee determines the risk to public safety and will grant Medical Treatment Furlough only after determining that the individual does not pose a threat to public safety.<sup>79</sup>



**Decision** – The Committee on Parole may authorize a release on Medical Treatment Furlough if the individual meets the medical criteria and (1) placement is secured in an acute care hospital, nursing home, or other appropriate medical facility that is able to meet the person’s medical and treatment needs; (2) all monitoring, security, and supervision requirements the Committee determines are necessary have been arranged by the Division of Probation and Parole; and (3) the Committee determines that the individual does not present a substantial flight risk.<sup>80</sup>

- **Conditions** – The Committee can establish any additional Medical Treatment Furlough conditions it determines are necessary to monitor the individual’s condition and to ensure the person is not a danger to self or society.<sup>81</sup>
- **Discharge Planning** – The Unit Health Authority ensures that discharge planning begins before Medical Treatment Furlough is approved and is completed “immediately” when the Committee approves release.<sup>82</sup> Planning includes ensuring that a residence plan at an appropriate health care facility is secured<sup>83</sup> and enrolling the individual in Medicaid or another health insurance plan prior to release.<sup>84</sup>

## **V. POST-DECISION**

**Supervision** – The Division of Probation and Parole is responsible for supervising and conducting monitoring visits of individuals released on Medical Treatment Furlough.<sup>85</sup>

### **Effect of Medical Treatment Furlough Request on Parole or Other Release**

**Eligibility** – Consideration for Medical Treatment Furlough is in addition to any other parole for which an individual may be eligible.<sup>86</sup>

### **Denials and Appeal Rights**

- If the Committee denies Medical Treatment Furlough, the individual may apply for a rehearing within the usual time frames applicable to general parole.<sup>87</sup>
- If a Medical Treatment Furlough request is declined at other steps in the process, reconsideration may be granted upon starting the process again at the Unit level.<sup>88</sup>

**Revocation/Termination** – The term of a person released on Medical Treatment Furlough is for the remainder of the individual’s sentence, without a reduction in the sentence for good behavior.<sup>89</sup>

- If an individual’s condition improves such that the person would not be eligible for Medical Treatment Furlough, the Committee can order a return to Department custody to await a hearing to decide whether Medical Treatment Furlough should be revoked.<sup>90</sup>



- If Medical Treatment Furlough is revoked due to an improvement in the medical condition, the individual resumes serving the balance of the sentence with credit given for the duration of the Medical Treatment Furlough.<sup>91</sup>
- The Committee can also revoke Medical Treatment Furlough for violations of any conditions it establishes.<sup>92</sup>

## VI. REPORTING/STATISTICS

The Louisiana Board of Pardons and Committee on Parole reported the following statistics in its 2020 annual report:

- In 2019, the Committee on Parole considered nine Medical Treatment Furlough requests and granted release to five individuals.<sup>93</sup>
- In 2020, the Committee on Parole considered three Medical Treatment Furlough requests but did not grant release to any of those three individuals.<sup>94</sup>

## COMPASSIONATE RELEASE

The Secretary of the Department of Public Safety and Corrections (Department) may authorize Compassionate Release of an incarcerated individual who is terminally ill or has limited mobility, without the person having to go through the Medical Parole or Medical Treatment Furlough process.<sup>95</sup>

### I. ELIGIBILITY

**Medical Condition** – To qualify, an incarcerated individual must:

- Have limited mobility, defined as having a medical condition that results in the individual being (1) unable to perform activities of daily living (such as bathing, dressing, transferring, toileting, and eating) without significant assistance or (2) confined to a bed or chair, including but not limited to “prolonged coma and mechanical ventilation;”<sup>96</sup> or
- Be terminally ill, meaning the person has been diagnosed with a terminal illness and death is expected within **60 days**.<sup>97</sup>

Note that Department policy states that it will generally not consider an individual for Compassionate Release if the medical condition or illness was present at the time of sentencing unless the person’s overall condition has significantly deteriorated since that time.<sup>98</sup>

**Exclusions** – Individuals who are sentenced to death will not be considered for Compassionate Release.<sup>99</sup>

## II. APPLICATION/REFERRAL

Any treating health care practitioner with knowledge of an incarcerated individual's terminal illness or limited mobility can initiate the Compassionate Release process by completing a *Medical Criteria Screening Form* and submitting it to the Unit Medical Director for consideration.<sup>100</sup> Other facility and Department staff with knowledge of an individual's medical condition, including wardens and Headquarters' medical staff, may also ask the Unit Medical Director to review an individual for Medical Parole consideration.<sup>101</sup>

- Department rules state that the Unit Health Authority (or a designee) **must** identify all incarcerated individuals who meet the medical criteria for Compassionate Release consideration and submit a quarterly report to the Chief Nursing Officer identifying those individuals.<sup>102</sup> The Chief Nursing Officer submits a quarterly report to the Department Secretary stating the number of individuals who meet the Compassionate Release medical criteria, the number who were granted Compassionate Release, and the number who were declined at any point in the consideration process.<sup>103</sup>

There is no information in the Department's Compassionate Release policy indicating that an incarcerated individual or family member can file an application to start the Compassionate Release process.

## III. DOCUMENTATION AND ASSESSMENT

The Warden at each institution appoints a multidisciplinary team to evaluate all Compassionate Release requests.<sup>104</sup>

**Evaluation and Recommendation: Unit Medical Director** – The Unit Medical Director (or designee) evaluates each *Medical Criteria Screening Form* received and, based only on the individual's medical information, decides whether the person meets the medical eligibility criteria for Compassionate Release consideration.<sup>105</sup>

- If the Unit Medical Director finds that the individual **meets** the medical criteria and recommends the person be considered for Compassionate Release, the appropriate section of the *Recommendation for Compassionate Release* form is completed and submitted to the Unit Warden for review.<sup>106</sup>
- If the Unit Medical Director declines to recommend the incarcerated individual for Compassionate Release consideration, notification is sent to the Warden and the Department's Chief Nursing Officer and the *Medical Criteria Screening Form* is filed in the person's medical record.<sup>107</sup>

**Evaluation and Recommendation: Unit Warden** – The Unit Warden (1) ensures that the multidisciplinary team members document and provide all relevant information regarding the individual’s suitability for Compassionate Release; (2) evaluates every *Recommendation for Compassionate Release*; and (3) completes the form by providing information on the individual’s offenses, convictions, and time incarcerated.<sup>108</sup>

- If, based on that evaluation, the Unit Warden recommends the individual for release, the *Recommendation for Compassionate Release* is sent to the Department’s Chief Nursing Officer for processing.<sup>109</sup>
- If the Unit Warden declines to recommend the individual for Compassionate Release, a notice is sent to the Department’s Chief Nursing Officer and the paperwork is filed in the person’s medical record.<sup>110</sup>

**Evaluation and Recommendation: Department Medical/Mental Health Director** – The Department’s Medical/Mental Health Director evaluates every *Recommendation for Compassionate Release* form received to ensure it complies with applicable law and policy<sup>111</sup> and completes the form by (1) recommending the individual for Compassionate Release and submitting it to the Department Secretary for review<sup>112</sup> or (2) declining to recommend the individual for Compassionate Release consideration and sending a notification of the decision to the Warden and the Department’s Chief Nursing Officer.<sup>113</sup>

**Discharge Planning: Unit Health Authority** – The Unit Health Authority must ensure that discharge planning begins before Compassionate Release is approved and is completed “immediately” when the Secretary approves release.<sup>114</sup> Planning includes a residence plan<sup>115</sup> and enrolling the individual in Medicaid or another health insurance plan prior to release.<sup>116</sup>

#### **IV. DECISION-MAKING PROCESS**

**Decision-Maker** – The Department Secretary makes all final decisions regarding a Compassionate Release.<sup>117</sup>

**Decision** – The Secretary reviews every *Recommendation for Compassionate Release* received and, after reviewing and evaluating all of the individual’s information,<sup>118</sup> makes one of the following decisions:

- Approves the Compassionate Release, concurring with the recommendation of the Department Medical/Mental Health Director, Warden, and medical staff;<sup>119</sup>
- Asks for additional information from medical and/or administrative staff before making a final decision;<sup>120</sup> or
- Denies the Compassionate Release request.<sup>121</sup>

## V. POST-DECISION

**Residence Plan and Continuity of Care** – The Department discharges terminally ill individuals who are granted Compassionate Release to an approved health care facility or home setting.<sup>122</sup> Individuals approved for Compassionate Release who are eligible because of limited mobility will only be released to a health care facility.<sup>123</sup> The Department sends copies of the appropriate medical information and provides a verbal report to the receiving health care facility or home setting.<sup>124</sup>

**Notice** – When a Compassionate Release is approved, the Unit Warden notifies the victim or the victim’s family by certified mail of the individual’s release.<sup>125</sup>

**Supervision** – The Division of Probation and Parole monitors individuals who have been granted Compassionate Release<sup>126</sup> and conducts regular monitoring visits.<sup>127</sup>

**Revocation/Termination** – The Compassionate Release term is for the remainder of the individual’s sentence, unless it is revoked.<sup>128</sup>

- If an individual’s condition has improved to the point the medical eligibility criteria are no longer met, the Division of Probation and Parole reports that to the Department’s Medical/Mental Health Director within five business days.<sup>129</sup>
- If Compassionate Release is revoked due to a medical improvement and the individual would otherwise be eligible for parole, the person may then be considered for traditional parole.<sup>130</sup>
- If a person granted Compassionate Release is discharged or absconds from a health care facility, the release is immediately revoked.<sup>131</sup>

## VI. REPORTING/STATISTICS

The Department did not respond to FAMM’s request regarding the number of individuals granted Compassionate Release in 2019 and 2020.

## PAROLE BASED ON ADVANCED AGE

### I. ELIGIBILITY

**Age** – Individuals age 60 and older may be eligible for parole if they have served at least 10 years of their sentence and meet all of the following conditions:<sup>132</sup>

- No major disciplinary offenses in 12 consecutive months prior to the parole hearing date.<sup>133</sup>

- Completion of 100 hours of prerelease programming (although only if it is available at the facility where the individual is housed).<sup>134</sup>
- Completion of substance abuse treatment, if applicable.<sup>135</sup>
- Attainment of a GED credential, unless the person previously received a high school diploma or was determined to be incapable of obtaining a GED diploma. In that case, the individual must complete a literacy program, adult basic education program, or a job-skills training program.<sup>136</sup>
- A “low-risk level designation” determined by “a validated risk assessment instrument” approved by the Department.<sup>137</sup>

**Exclusions** – Individuals convicted of a crime of violence or a sex offense are not eligible for parole consideration under the advanced age provision.<sup>138</sup>

## **II. ADDITIONAL INFORMATION**

There is no additional age-specific parole information in the state law or Louisiana Board of Pardons and Committee on Parole rules on applying for parole on the basis of being age 60 or older or on the decision-making process, which would indicate that the general parole rules apply.<sup>139</sup>

## **LOUISIANA COMPASSIONATE RELEASE**

### **PRIMARY LEGAL SOURCES**

#### **MEDICAL PAROLE**

##### **Statute**

Louisiana Statutes, Title 15, § 574.20 (2020), available through the Louisiana State Legislature, <https://legis.la.gov/Legis/Law.aspx?d=79226>.

##### **Regulations**

Louisiana Administrative Code, Title 22, Part XI, Chapter 3, § 307 (2021), available through the Louisiana Division of Administration, <https://www.doa.la.gov/media/4eufbn5k/22v01-15.pdf>.

##### **Agency Policy**

Louisiana Department of Public Safety and Corrections, Health Care Policy HCP42, Medical Release Procedures: Medical Parole (Jan. 9, 2019). This policy is not publicly available on the Department's website but can be obtained at [IncarcerationTransparency.org](https://www.incarcerationtransparency.org), a website compiled by the Loyola University New Orleans College of Law, <https://www.incarcerationtransparency.org/wp-content/uploads/2021/05/Medical-Parole.pdf>.

Louisiana Board of Pardons, Committee on Parole, Board Policy 03-301-POL, Parole Eligibility and Types of Parole (Oct. 26, 2020), <https://s32082.pcdn.co/wp-content/uploads/2020/12/03-301-POL-PAROLE-ELIGIBILITY-AND-TYPES-OF-PAROLE.pdf>.

#### **MEDICAL TREATMENT FURLOUGH**

##### **Statute**

Louisiana Statutes § 15:574.20 (2020), available through the Louisiana State Legislature, <https://legis.la.gov/Legis/Law.aspx?d=79226>.

##### **Regulations**

Louisiana Administrative Code, Title 22, Part XI, Chapter 3, § 307 (2021), available through the Louisiana Division of Administration, <https://www.doa.la.gov/media/4eufbn5k/22v01-15.pdf>.

##### **Agency Policy**

Louisiana Department of Public Safety and Corrections, Health Care Policy HCP46, Medical Release Procedures: Medical Treatment Furlough (Nov. 28, 2018). This policy is not publicly available on the Department's website but can be obtained at [IncarcerationTransparency.org](https://www.incarcerationtransparency.org), a website compiled by the Loyola University New Orleans, College of Law, at <https://www.incarcerationtransparency.org/wp-content/uploads/2021/05/Medical-Treatment-Furlough.pdf>.

Louisiana Board of Pardons, Committee on Parole, Board Policy 03-301-POL, Parole Eligibility and Types of Parole (Oct. 26, 2020), <https://s32082.pcdn.co/wp-content/uploads/2020/12/03-301-POL-PAROLE-ELIGIBILITY-AND-TYPES-OF-PAROLE.pdf>.

(continued on next page)

## **LOUISIANA COMPASSIONATE RELEASE**

### **PRIMARY LEGAL SOURCES**

(continued from previous page)

### **COMPASSIONATE RELEASE**

#### **Agency Policy**

Louisiana Department of Public Safety and Corrections, Health Care Policy HCP41, Compassionate Release (June 12, 2018). Note that this policy is not publicly available on the Department's website but can be obtained at [IncarcerationTransparency.org](https://www.incarcerationtransparency.org), a website compiled and updated annually by the Loyola University New Orleans College of Law, at <https://www.incarcerationtransparency.org/wp-content/uploads/2021/05/Compassionate-Release.pdf>.

- Louisiana Department of Public Safety and Corrections, *Recommendation for Compassionate Release* (Form HC-06-B) (June 14, 2018), <https://www.incarcerationtransparency.org/wp-content/uploads/2021/05/Recommedation-for-Compassionate-Release.pdf>.

### **PAROLE BASED ON ADVANCED AGE**

#### **Statute**

Louisiana Statutes, Title 15, § 15:574.4 (A) (4) (2020), available through the Louisiana State Legislature, <https://legis.la.gov/Legis/Law.aspx?d=79239>.

## **NOTES**

---

\* *Id.* means see prior note.

<sup>1</sup> La. Stat. Ann. § 15:574.20; La. Admin. Code tit. 22, §§ 307 (A) and (C); Louisiana Department of Public Safety and Corrections, Health Care Policy HCP42, Medical Release Procedures: Medical Parole (Department Health Care Policy HCP42); Louisiana Board of Pardons, Committee on Parole, Board Policy 03-301-POL, Parole Eligibility and Types of Parole, Procedures: Medical Parole.

<sup>2</sup> La. Stat. Ann. § 15:574.20; La. Admin. Code tit. 22, §§ 307 (B) and (C); Louisiana Department of Public Safety and Corrections, Health Care Policy HCP46, Medical Release Procedures: Medical Treatment Furlough (Department Health Care Policy HCP46); Louisiana Board of Pardons, Committee on Parole, Board Policy 03-301-POL, Parole Eligibility and Types of Parole, Procedures: Medical Treatment Furlough.

<sup>3</sup> Louisiana Department of Public Safety and Corrections, Health Care Policy HCP41, Medical Release Procedures: Compassionate Release (Department Health Care Policy HCP41).

<sup>4</sup> La. Stat. Ann. § 15:574.4 (A) (4).



<sup>5</sup> La. Stat. Ann. § 15:574.20 (B); La. Admin. Code tit. 22, § 307 (A); Department Health Care Policy HCP42, § 6 (B) (1); Board Policy 03-301-POL, §§ (B) (2) and (B) (3).

<sup>6</sup> La. Stat. Ann. § 15:574.20 (B) (1) (a); La. Admin. Code tit. 22, § 307 (A) (4); Department Health Care Policy HCP42, § 5 (E); Board Policy 03-301-POL, Definitions. Note that “substantial gainful activity” is not defined in the statute, regulations, or agency policy.

<sup>7</sup> La. Stat. Ann. § 15:574.20 (B) (1) (b); La. Admin. Code tit. 22, § 307 (A) (5); Department Health Care Policy HCP42, § 5 (F); Board Policy 03-301-POL, Definitions.

<sup>8</sup> Department Health Care Policy HCP42, § 6 (B) (2). See also Board Policy 03-301-POL, Procedures: §, § (B) (c).

<sup>9</sup> La. Stat. Ann. § 15:574.20 (B) (2); La. Admin. Code tit. 22, § 307 (A) (2); Department Health Care Policy HCP42, § 6 (A) (1); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (a) (ii). [Note that Board Policy 03-301-POL does not mention the exclusion for individuals serving sentences for second-degree murder.]

<sup>10</sup> La. Stat. Ann. §§ 15:574.20 (A) and E (2).

<sup>11</sup> Department Health Care Policy HCP42, § 7 (B).

<sup>12</sup> Id. at § 7 (C).

<sup>13</sup> Id. at § 8 (A).

<sup>14</sup> Id. at § 8 (B).

<sup>15</sup> Id. at § 7 (A).

<sup>16</sup> Id. at § 7 (D) (1).

<sup>17</sup> Id. at § 7 (D) (2).

<sup>18</sup> Id. at § 7 (D) (3).

<sup>19</sup> Id. at § 7 (E) (2).

<sup>20</sup> The Department cannot recommend an individual until full consideration has been given to the person’s crime and criminal history, length of time in custody, institutional conduct, and how the individual’s medical condition relates to the overall risk to society. La. Stat. Ann. § 15:574.20 (D) (1); Department Health Care Policy HCP42, § 7 (E) (3).

<sup>21</sup> Department Health Care Policy HCP42, § 7 (E) (3) (a).

<sup>22</sup> Id. at § 7 (E) (3) (b).

<sup>23</sup> Id. at § 7 (F) (1).

<sup>24</sup> Id. at § 7 (F) (2) (a).

<sup>25</sup> Id. at § 7 (F) (2) (b).

<sup>26</sup> Id. at § 7 (G) (1).

<sup>27</sup> Id. at § 7 (G) (2) (a).

<sup>28</sup> Id. at § 7 (G) (2) (b).

<sup>29</sup> Id. at § 7 (G) (2) (c).

<sup>30</sup> La. Stat. Ann. §§ 15:574.20 (A) and (E); La. Admin. Code, § 307 (C); Department Health Care Policy HCP42, §§ 3 and 7 (H) (6); Board Policy 03-301-POL, Procedures: Parole Authority, § (B).

<sup>31</sup> La. Stat. Ann. § 15:574.20 (E) (2); La. Admin. Code tit. 22, § 307 (A) (6); Department Health Care Policy HCP42, § 7 (H) (2); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (b).

<sup>32</sup> La. Admin. Code tit. 22, § 307 (A) (1); Department Health Care Policy HCP42, § 7 (H) (1); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (a) (i). Note that the Board rules state that Medical Parole hearings are conducted in accordance with Board Policies 05-511-POL, Public Hearings/Videoconference, and 05-511-A-POL, Special Needs. In addition, due to the nature of Medical Parole cases, an exception is made to the Board victim notification policy that requires notice to be at least 60 days in advance of a scheduled hearing date. See La. Admin. Code, § 307 (C) (3) and Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (c).

<sup>33</sup> La. Admin. Code, § 511 (D) (1).

<sup>34</sup> La. Stat. Ann. §§ 15:574.20 (D) (1) and (E) (3); Department Health Care Policy HCP42, § 7 (H) (3); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (d) and Procedures: Parole Authority, § (B) (b).

<sup>35</sup> Department Health Care Policy HCP42, § 7 (H) (1).

<sup>36</sup> La. Stat. Ann. § 15:574.20 (E) (1). Note that as a condition of Medical Parole, the individual must waive the right to medical confidentiality and privacy. La. Admin. Code, § 307 (C) (2); Department Health Care Policy HCP42, § 7 (H) (4); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (d).

<sup>37</sup> Board Policy 03-301-POL, Procedures: Parole Authority, § (B) (d).

<sup>38</sup> Department Health Care Policy HCP42, § 7 (J) (2). The exact timing of the discharge planning process is not specified in Department policy.

<sup>39</sup> Id. at § 7 (J) (1).

<sup>40</sup> Id. at § 7 (J) (2) (b).

<sup>41</sup> Id. at §§ 7 (L) (1) and 8 (C).

<sup>42</sup> La. Stat. Ann. § 15:574.20 (F); Board Policy 03-301-POL, § (C).

<sup>43</sup> La. Stat. Ann. § 15:574.20 (A); La. Admin. Code tit. 22, § 307 (A) (3); Board Policy 03-301-POL, Procedures: Medical Parole, § (B) (2) (a) (iii). Note that the Administrative Code also states that if an individual is eligible for both Medical Parole and traditional parole, the Committee will first consider the person for traditional parole. La. Admin. Code tit. 22, § 307 (A) (3).

<sup>44</sup> La. Stat. Ann. § 15:574.20 (E) (4); Department Health Care Policy HCP42, § 7 (I) (2).

<sup>45</sup> Department Health Care Policy HCP42, § 7 (I) (1).

<sup>46</sup> La. Stat. Ann. § 15:574.20 (F); Department Health Care Policy HCP42, §§ 7 (K) (1) and (2); Board Policy 03-301-POL, § (C).

<sup>47</sup> La. Stat. Ann. § 15:574.20 (G); Department Health Care Policy HCP42, § 7 (L) (2); Board Policy 03-301-POL, § (D) (b).

<sup>48</sup> La. Stat. Ann. § 15:574.20 (G). Note that Department and Committee on Parole policies (but not the Medical Parole statute) state that if Medical Parole is revoked due to an improvement and the individual is otherwise eligible for parole, the person may then be considered for traditional parole under La. Stat. Ann. § 574.4. See Department Health Care Policy HCP42, § 7 (L) (3) and Board Policy 03-301-POL, § (D) (c).

<sup>49</sup> La. Stat. Ann. § 15:574.20 (G); Department Health Care Policy HCP42, § 7 (L) (5); Board Policy 03-301-POL, §§ (D) (a) and (d).

<sup>50</sup> Louisiana Board of Pardons and Committee on Parole, *2020 Annual Report*, 12, <https://s32082.pcdn.co/wp-content/uploads/2021/06/2020-Annual-Report.pdf>.

<sup>51</sup> *Id.*

<sup>52</sup> La. Stat. Ann. §§ 15:574.20 (C) (1) (a) and (b); La. Admin. Code, § 307 (B) (4); Department Health Care Policy HCP46, § 5 (E); Louisiana Board of Pardons, Committee on Parole, Board Policy 03-301-POL, Parole Eligibility and Types of Parole, Procedures: Medical Treatment Furlough, § (B) (3) (a).

<sup>53</sup> La. Stat. Ann. §§ 15:574.20 (C) (2) (a) and (b); La. Admin. Code, § 307 (B) (4); Department Health Care Policy HCP46, §§ 5 (D) and 6 (B) (1) (a).

<sup>54</sup> Department Health Care Policy HCP46, § 6 (B) (1) (c); Board Policy 03-301-POL, Procedures: Parole Authority, § (B) (c).

<sup>55</sup> La. Stat. Ann. § 15:574.20 (C) (4); La. Admin. Code tit. 22, § 307 (B) (2); Department Health Care Policy HCP46, § 6 (A); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (B) (3) (a) (i).

<sup>56</sup> La. Stat. Ann. §§ 15:574.20 (A) and (E) (2); La. Admin. Code, § 307 (B).

<sup>57</sup> Department Health Care Policy HCP46, § 7 (B).

<sup>58</sup> *Id.* at § 7 (C).

<sup>59</sup> *Id.* at § 8 (A).

<sup>60</sup> *Id.* at § 8 (B).

<sup>61</sup> *Id.* at § 7 (A).

<sup>62</sup> *Id.* at § 7 (D) (1).

<sup>63</sup> *Id.* at § 7 (D) (2).

<sup>64</sup> Id. at § 7 (D) (3).

<sup>65</sup> Id. at § 7 (E) (2).

<sup>66</sup> The Department cannot recommend an individual until full consideration has been given to the person's crime and criminal history, length of time in custody, institutional conduct, and how the individual's medical condition relates to the overall risk to society. La. Stat. Ann. § 15:574.20 (D) (1); Department Health Care Policy HCP46, § 7 (E) (3).

<sup>67</sup> Department Health Care Policy HCP46, § 7 (E) (3) (a).

<sup>68</sup> Id. at § 7 (E) (3) (b).

<sup>69</sup> Id. at § 7 (F) (1).

<sup>70</sup> Id. at § 7 (F) (2) (a).

<sup>71</sup> Id. at § 7 (F) (2) (b).

<sup>72</sup> Id. at § 7 (G) (1).

<sup>73</sup> Id. at § 7 (G) (2) (a).

<sup>74</sup> Id. at § 7 (G) (2) (c).

<sup>75</sup> La. Stat. Ann. §§ 15:574.20 (A) and (E); La. Admin. Code tit. 22, § 307 (C); Department Health Care Policy HCP46, §§ 3 and 7 (H) (6); Board Policy 03-301-POL, Procedures: Parole Authority, § (B).

<sup>76</sup> La. Admin. Code tit. 22, § 307 (B) (1); Department Health Care Policy HCP46, § 7 (H) (1); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (B) (3) (b). Note that the Board rules state that Medical Treatment Furlough hearings are conducted in accordance with Board Policies 05-511-POL, Public Hearings/Videoconference, and 05-511-A-POL, Special Needs. In addition, due to the nature of Medical Treatment Furlough cases, an exception is made to the Board victim notification policy that requires notice to be at least 60 days in advance of a scheduled hearing date. See La. Admin. Code, § 307 (C) (3) and Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (B) (3) (c).

<sup>77</sup> La. Admin. Code, § 511 (D) (1).

<sup>78</sup> La. Stat. Ann. § 15:574.20 (E) (2); La. Admin. Code, § 307 (B) (5); Department Health Care Policy HCP46, § 7 (H) (2).

<sup>79</sup> La. Stat. Ann. §§ 15:574.20 (D) (1) and (E) (3); La. Admin. Code, § 307 (C) (1); Department Health Care Policy HCP46, § 7 (H) (3); Board Policy 03-301-POL, Procedures: Parole Authority, § (B) (b). Note that the Board Policy states that the individual must not pose a "high risk" to public safety.

<sup>80</sup> La. Stat. Ann. § 15:574.20 (C) (3).

<sup>81</sup> La. Stat. Ann. § 15:574.20 (E) (1). Note that as a condition of Medical Treatment Furlough, the individual must waive the right to medical confidentiality and privacy. La. Admin. Code, § 307 (C) (2); Department Health Care Policy HCP46, § 7 (H) (4); Board Policy 03-301-POL, Procedures: Parole Authority, § (B) (d).

<sup>82</sup> Department Health Care Policy HCP46, § 7 (J) (2) (a). The exact timing of the discharge planning process is not clear.

<sup>83</sup> Id. at § 7 (J) (2) (c). Individuals granted Medical Treatment Furlough may only be released to a health care facility. Id. at § 7 (J) (1).

<sup>84</sup> Id. at § 7 (J) (2) (b).

<sup>85</sup> La. Stat. Ann. § 15:574.20 (F); Department Health Care Policy HCP46, §§ 7 (L) (1) and 8 (C); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (E).

<sup>86</sup> La. Stat. Ann. § 15:574.20 (A).

<sup>87</sup> La. Stat. Ann. § 15:574.20 (E) (4); Department Health Care Policy HCP46, § 7 (I) (2).

<sup>88</sup> Department Health Care Policy HCP46, § 7 (I) (1).

<sup>89</sup> La. Stat. Ann. § 15:574.20 (F); Department Health Care Policy HCP46, § 7 (K); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (C).

<sup>90</sup> La. Stat. Ann. § 15:574.20 (G); Department Health Care Policy HCP46, § 7 (L) (2); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (D) (b).

<sup>91</sup> La. Stat. Ann. § 15:574.20 (G); Department Health Care Policy HCP46, § 7 (L) (4).

<sup>92</sup> La. Stat. Ann. § 15:574.20 (G); Department Health Care Policy HCP46, § 7 (L) (5); Board Policy 03-301-POL, Procedures: Medical Treatment Furlough, § (D) (d).

<sup>93</sup> Louisiana Board of Pardons and Committee on Parole, *2020 Annual Report*, 12, <https://s32082.pcdn.co/wp-content/uploads/2021/06/2020-Annual-Report.pdf>.

<sup>94</sup> Id.

<sup>95</sup> Health Care Policy HCP41, §§ 1 and 3. Note that although the policy's definition of Compassionate Release says that it is a "temporary leave of absence" [§ 5 (A)], it also says that the term of an individual granted Compassionate Release is for the remainder of that person's sentence [§ 7 (J) (1)].

<sup>96</sup> Id. at §§ 5 (E) and 6 (B) (1) (a).

<sup>97</sup> Id. at § 5 (G). Note that the definition of "terminally ill" is different for Compassionate Release than it is for Medical Parole. Terminally ill individuals that are released through Compassionate Release to a health care facility must also meet the facility's admission requirements; if being released to a home setting, the individual must meet the requirements for hospice care or a home health program. Id. at § 6 (B) (1) (b).

<sup>98</sup> Id. at § 6 (B) (1) (c).

<sup>99</sup> Id. at § 6 (A).

<sup>100</sup> Id. at § 7 (B).

<sup>101</sup> Id. at § 7 (C).

<sup>102</sup> Id. at § 8 (A).

<sup>103</sup> Id. at § 8 (B).

<sup>104</sup> Id. at § 7 (A).

<sup>105</sup> Id. at § 7 (D) (1).

<sup>106</sup> Id. at § 7 (D) (2).

<sup>107</sup> Id. at § 7 (D) (3).

<sup>108</sup> Id. at §§ 7 (E) (1) through (E) (3).

<sup>109</sup> Id. at § 7 (E) (3) (a).

<sup>110</sup> Id. at § 7 (E) (3) (b).

<sup>111</sup> Id. at § 7 (F) (1).

<sup>112</sup> Id. at § 7 (F) (2) (a).

<sup>113</sup> Id. at § 7 (F) (2) (b).

<sup>114</sup> Id. at § 7 (I) (2) (a).

<sup>115</sup> Id. at § 7 (I) (2) (c).

<sup>116</sup> Id. at § 7 (I) (2) (b).

<sup>117</sup> Id. at § 3.

<sup>118</sup> Id. at § 7 (G) (1).

<sup>119</sup> Id. at § 7 (G) (2) (a).

<sup>120</sup> Id. at § 7 (G) (2) (b).

<sup>121</sup> Id. at § 7 (G) (2) (c). If the Secretary denies Compassionate Release, a notice of the decision is sent to the Warden and the Department's Chief Nursing Officer.

<sup>122</sup> Id. at § 7 (I) (1) (a).

<sup>123</sup> Id. at § 7 (I) (1) (b).

<sup>124</sup> Id. at § 7 (I) (2) (d).

<sup>125</sup> Id. at § 7 (I) (3) (b). If a sex offender is approved for Compassionate Release, the Unit Warden follows the notification requirements in Department Regulation No. IS-E-1, Sex Offender Notification, Registration Requirements and Residence Plan. Id. at (3) (c).

<sup>126</sup> Id. at § 8 (C).

<sup>127</sup> Id. at § 7 (K) (1).

<sup>128</sup> Id. at § 7 (J) (1).

<sup>129</sup> Id. at § 7 (K) (2).

<sup>130</sup> Id. at § 7 (K) (3).

<sup>131</sup> Id. at § 7 (K) (5).

<sup>132</sup> La. Stat. Ann. § 15:574.4 (A) (4).

<sup>133</sup> Id. at (A) (4) (b).

<sup>134</sup> Id. at (A) (4) (c).

<sup>135</sup> Id. at (A) (4) (d).

<sup>136</sup> Id. at (A) (4) (e).

<sup>137</sup> Id. at (A) (4) (f).

<sup>138</sup> Id. at (A) (4) (a), referencing La. Stat. Ann. §§ 14.2 (B) and 15:541.

<sup>139</sup> See general parole rules and information at La. Stat. Ann §§ 15:574.4 through 574.11; La. Admin. Code tit. 22, Pt. XI, Chapters 3, 5, and 7 (2018); and Louisiana Board of Pardons and Parole general parole policies, including 05-500-DIR: Parole Hearing Process, 07-701-POL: Parole Decisions, and 07-707-POL: Parole Plans, at <https://doc.louisiana.gov/imprisoned-person-programs-resources/pardons-parole/policies-and-administrative-roles/>.