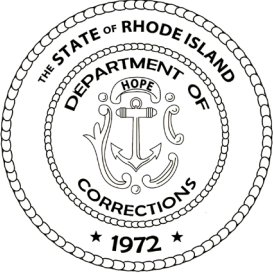



RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 20.08-4 DOC	EFFECTIVE DATE: 10/17/2022	PAGE 1 OF 8
	SUPERCEDES: 20.08-3 DOC	DIRECTOR: Please use BLUE ink. 	
SECTION: HEALTH CARE		SUBJECT: MEDICAL AND GERIATRIC PAROLE	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22-23), Powers of the director; RIGL § 12-28-3, General (victim) rights; § 12-28-6, Right to address parole board; § 13-8.1 et seq., Medical and Geriatric Parole			
REFERENCES: The most recent version of RIDOC policy 28.11 DOC, Parolee Assisted Living ; NCCHC standard JG12, P-I-04			
INMATE / PUBLIC ACCESS?		<input checked="" type="checkbox"/> YES	
AVAILABLE IN SPANISH?		<input checked="" type="checkbox"/> YES	

I. PURPOSE:

To ensure eligible inmates at the Rhode Island Department of Corrections (RIDOC) are referred for consideration by the Rhode Island Parole Board for medical or geriatric parole.

II. POLICY:

- A. Consistent with RIGL § 13-8.1 et seq., all inmates, except those serving a sentence of life without parole, shall at any time after they begin serving their sentence be eligible for medical or geriatric parole consideration, regardless of the crime committed or the sentence imposed.

- B. The Parole Board is authorized to grant medical parole release of an inmate, except an inmate serving life without parole, at any time, who is determined to be terminally ill, severely ill, or permanently physically or cognitively incapacitated within the meaning of Rhode Island General Law (RIGL) § 13-8.1-3.

- C. The Parole Board is authorized to grant geriatric parole release of an “[aging prisoner](#),” except for an inmate serving life without parole, within the meaning of RIGL § 13-8.1-3.

III. DEFINITIONS:

For the purposes of this policy, the following terms are defined as follows:

1. **Aging Prisoner** - an individual who is sixty-five (65) years of age or older and suffers from functional impairment, infirmity, or illness.
2. **Application for Relief** - the Physician Examination Report for determination of Medical or Geriatric Parole form. For more information, see Section [IV.A.3](#).
3. **Attending Physician** - a fully licensed physician who is an employee of or is contracted by RIDOC. The attending physician may be at RIDOC or at an outside hospital to which the inmate has been transported. An intern, resident, fellow and/or other medical trainee may NOT be considered an attending physician.
4. **Cognitively Incapacitated** - suffering from a cognitive condition, such as dementia, which greatly impairs activities that are necessary for independence such as feeding, toileting, dressing, and bathing and renders their incarceration non-punitive and non-rehabilitative.
5. **Medical/Geriatric Parole Package** - contains, at a minimum, [Application for Relief](#) (the Physician Examination Report for Determination of Medical/Geriatric Parole Form), [Medical/Geriatric Discharge Plan](#), Medical Program Director’s opinion letter, and RIDOC Director’s opinion letter for an inmate eligible for medical or geriatric parole.
6. **Permanently Physically Incapacitated** - suffering from a condition caused by injury, disease or illness, or cognitive insult such as dementia or persistent vegetative state which, to a reasonable degree of medical certainty, permanently and irreversibly physically incapacitates the individual to the extent that the individual needs help with most of the activities that are necessary for independence such as feeding, toileting, dressing, and bathing and transferring, or no significant physical activity is possible, or suffering from an incurable, progressive condition that substantially diminishes the individual’s capacity to function in a correctional setting.

7. **Reasonable Degree of Medical Certainty** - when an expert medical opinion regarding medical parole is offered it:
 - a. must be in writing;
 - b. must speak in terms of *probabilities* and not *possibilities*;
 - c. when determining prognosis for terminal illness, must specify “more likely than not” that the inmate’s illness will result in death within eighteen (18) months.

8. **Severely Ill** - suffering from a significant and permanent, or chronic physical and/or mental condition that:
 - a. requires extensive medical and/or psychiatric treatment with little or no possibility of recovery; and
 - b. significantly impairs rehabilitation from further incarceration.

NOTE: For the purposes of this policy, “significantly impairs” refers to a physical, mental or other medical disability that hinders full participation in rehabilitative programming (e.g., class participation).

9. **Terminally Ill** - suffering from a condition caused by injury (except self-inflicted injury), disease or illness which, to a reasonable degree of medical certainty, is a life-limiting diagnosis that will lead to profound functional, cognitive and/or physical decline, and likely will result in death within eighteen (18) months.

IV. **PROCEDURES:**

- A. **Medical or Geriatric Parole Eligibility**
 1. An [Application for Relief](#) to determine eligibility for medical or geriatric parole may be initiated by:
 - a. an attending physician, on behalf of the inmate; or
 - b. an inmate, or their family member or friend, **with an attending physician’s written approval**;

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2. The attending physician sends the completed [Application for Relief](#) to the Medical Program Director, who has been appointed by the Director as his/her designee.
 3. An [Application for Relief](#) shall contain, at a minimum, the following information:
 - a. Diagnosis of the inmate's medical conditions, including related medical history, including whether any of the conditions were present at the onset of incarceration;
 - b. Detailed description of the conditions and treatments;
 - c. Prognosis, including life expectancy, likelihood of recovery, likelihood of improvement, mobility and trajectory and rate of debilitation;
 - d. Degree of incapacity or disability, including an assessment of whether the inmate is ambulatory, capable of engaging in any substantial physical activity, ability to independently provide for their daily life activities, and the extent of that activity; and
 - e. An opinion from the Medical Program Director as to whether the person is terminally ill, and, if so, the stage of the illness, or whether the person is permanently physically or cognitively incapacitated, severely ill, or an aging prisoner as defined in 13-8.1-3.
 4. If the Medical Program Director's opinion is that the inmate is **NOT** terminally ill, permanently physically incapacitated, severely ill, or an "[aging prisoner](#)" as defined in RIGL § 13-8.1-3, the Medical/Geriatric Parole Package will not be created.

The Medical Program Director/designee sends a letter to the inmate informing them that their [Application for Relief](#) has been **DENIED** and notifies the Office of Legal Counsel of the inmate's denial.

5. If the Medical Program Director's opinion is that the inmate is terminally ill, permanently physically incapacitated, severely ill, or an "aging prisoner," the Medical Program Director/designee instructs the Probation and Parole (P&P) Supervisor of Transitional Services & Discharge Planning to prepare a [Medical/Geriatric Discharge Plan](#).

NOTE: RIDOC and the Parole Board must jointly develop standards for the inmate's [Medical/Geriatric Discharge Plan](#) that is appropriately adapted to the criminal justice setting; and that the discharge plan ultimately must be acceptable to the Parole Board. If an appropriate discharge plan is not feasible, then the Medical/Geriatric Parole Package may not be forwarded to the Parole Board.

- a. The discharge plan should ensure at a minimum that:
 - (1) An appropriate placement for the inmate has been secured, including, but not limited to a hospital, a nursing facility, hospice, or family home;
 - (2) A referral has been made for the inmate to secure a source for payment of the inmate medical expenses;
- b. The Medical Director transfers the completed Medical/Geriatric Parole Package to the Director's office. The Director's Office notifies the Office of Legal Counsel that the Medical/Geriatric Parole Package is being transferred to the Parole Board. The Office of Legal Counsel may forward a copy of the Application for Relief to the Rhode Island Office of Attorney General.

B. Granting/Denying Medical or Geriatric Parole

1. Within seven (7) days of the Parole Board's receipt of the inmate's complete Medical/Geriatric Parole Package, the Parole Board through its Chairperson determines preliminarily whether the application, on its face, demonstrates that relief may be warranted for purposes of scheduling the matter before a quorum of the board.
 - a. If, on its face, the Medical/Geriatric Parole Package clearly demonstrates relief is **unwarranted**, the Parole Board may deny the [Application for Relief](#) without further hearing or proceedings or request further information. The Parole Board notifies the inmate in writing within seven (7) days of its decision to deny the [Application for Relief](#).

- b. If the Parole Board Chairperson determines preliminarily that the Medical/Geriatric Parole Package warrants relief, the case is set for a hearing within thirty (30) days of receipt of the [Application for Relief](#).
 - (1) The Parole Board sends notice of this hearing to the prosecutor and victim(s), if any, and they have the right to be heard at the hearing, or in writing, or both.
 - (2) The inmate is entitled to be represented by an attorney or by a public defender, if qualified, or other representative.
2. If the Parole Board finds from the credible medical evidence that the inmate is terminally ill, permanently physically or cognitively incapacitated, severely ill, or an "[aging prisoner](#)," the Board shall grant release to the inmate but only after the Board also considers whether, in light of the inmate's medical condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that the release is compatible with the welfare of society and will not so depreciate the seriousness of the crime as to undermine respect for the law.
3. There shall be a presumption that the opinion of the physician and/or medical director will be accepted. However, the inmate, the Physician, the Director or the Parole Board may request an independent medical evaluation within seven (7) days after the Physician's and/or Medical Program Director's report is presented. The evaluation shall be completed and a report, filed with the Director and the Parole Board, and a copy sent to the inmate within fourteen (14) days from the date of the request.
4. Within seven (7) days of the hearing, the Parole Board issues a written decision granting or denying medical parole and explaining the reasons for the decision. The Parole Board Administrator notifies RIDOC's Parole Coordinator and Medical Program Director/designee of the Board's decision.
5. If the Parole Board determines that medical or geriatric parole is warranted, it shall impose conditions of release, which shall include, but is not limited to, the following:
 - a. Periodic medical examinations;
 - b. Periodic reporting to a Parole Officer, and the reporting interval;

- c. In the case of an inmate who is medically paroled due to being severely ill, the Parole Board shall require electronic monitoring as a condition of the medical parole, unless the health care plan mandates placement in a health care facility that cannot accommodate the electronic monitoring;
- d. Any other terms or conditions the Parole Board deems necessary.

C. Revoking Medical/Geriatric Parole

If after release on medical or geriatric parole the parolee's condition or circumstances change so that s/he would not then be eligible for medical or geriatric parole, his/her Parole Officer notifies RIDOC's Medical Program Director and the Parole Board of these changes.

- 1. The Parole Board may order the parolee returned to custody to await a hearing to determine whether his/her release should be revoked.
- 2. A release on medical or geriatric parole may also be revoked for violation of conditions otherwise applicable to non-medical/non-geriatric parole.

D. Reporting Requirements

- 1. RIDOC's Director/designee prepares an annual report for the Parole Board and the Rhode Island General Assembly which is sent to them no later than February 15th of the following year.
- 2. The annual report includes, at a minimum, the:
 - a. number of inmates who applied for medical or geriatric parole;
 - b. number of inmates who were granted medical or geriatric parole;
 - c. nature of the illness(es), cognitive condition, function impairment, and/or infirmity of the applicants;
 - d. nature of the placement(s) pursuant to the medical discharge plan(s);
 - e. categories of reasons for denial for those whose applications were denied;

- f. number of releases on medical or geriatric parole who were returned to the custody of RIDOC and reasons for return; and
- g. number of inmates who meet the statutory definition of "[aging prisoner](#)" and would be potentially eligible for geriatric parole.

E. Training

An annual educational seminar will be offered by the RIDOC Healthcare Services unit to the Parole Board and community stakeholders on aging and infirmity in prison and special considerations that should be applied to an "[aging prisoner](#)" and inmates with severe or terminal illnesses during parole consideration.