



# NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

CD-050400 Parole of Geriatric, Permanently Incapacitated or Terminally Ill Inmates	Issued: 7/1/94 Effective: 7/1/94	Reviewed: 11/21/23 Revised: 08/23/23
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

## AUTHORITY:

- A. NMSA 1978, Section 31-21-10, as amended.
- B. NMSA 1978, Section 31-21-17.1.
- C. NMSA 1978, Section 31-26-1 through 14, as amended.

## REFERENCES:

- A. State Parole Board Policy #94-1, Geriatric/Incapacitated/Terminally Ill.
- B. APPFS 3-3198 Hardship and Exceptional Cases.

## PURPOSE:

To provide guidelines regarding parole applications for geriatric inmates, inmates who are permanently incapacitated, or terminally ill.

## APPLICABILITY

All inmates of the New Mexico Corrections Department (NMCD) serving New Mexico sentences who have not been convicted of First-Degree Murder and who are geriatric or who are medically certified as permanently incapacitated or terminally ill and all employees of the NMCD involved in the administration of this policy.

## ATTACHMENTS:

- A. Geriatric/Incapacitated/ Terminally Ill Parole Consideration Application (*CD-050401.A*)
- B. Medical Parole Application Worksheet (*CD-050401.B*)
- C. Behavioral Health Parole Application Worksheet (*CD-050101.C*)
- D. Geriatric/Incapacitated/Terminally Ill Parole Policy/Procedure Acknowledgement (*CD-050401.D*)

## DEFINITIONS:

- A. Geriatric: Person who is serving a sentence and confined in a prison or other corrections institution under the control of the corrections department; is 55 years of age or older; suffers from a debilitation and chronic infirmity, illness or disease related to aging; and does not constitute a danger to the person's own self or to society at the time of review.

- B. *Permanently Incapacitated*: Person who is serving a sentence and is confined in a prison or other correctional institution under the control of the corrections department; by reason of an existing medical condition is permanently and irreversibly physically incapacitated; and does not constitute a danger to the person's own self or to society at the time of the review.
- C. *Terminally Ill*: Person who is serving a sentence and is confined in a prison or other correctional institution under the control of the corrections department; has an incurable condition caused by illness or disease that will, within reasonable medical judgment produce death within six months; and does not constitute a danger to the person's own self or to society at the time of the review.

## **POLICY**

Staff may make recommendations to parole authorities for the movement forward of parole dates in hardship or exceptional cases, unless prohibited by law.

Inmates who are geriatric, who are permanently incapacitated or terminally ill, may seek parole consideration by written application to the New Mexico Parole Board. NMCD will identify geriatric, permanently incapacitated and terminally ill inmates, notify those inmates of the opportunity to apply for medical or geriatric parole and recommend the release of those inmates who are eligible for medical or geriatric parole.

A copy of this policy will be placed and maintained in the law library at each institution of the NMCD.

In reference to this policy, Director will refer to the Director of the adult probation and parole division of the corrections department or any employee designated by the director.



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## AUTHORITY

Policy *CD-050400*

## PROCEDURES:

### A. Eligibility and Notification:

1. On a yearly basis, the corrections department shall identify geriatric, permanently incapacitated and terminally ill inmates over the age of 55.
2. The assigned classification officer will notify the identified inmates of the opportunity to apply for medical or geriatric parole by providing each eligible inmate with a copy of this policy and applicable attachments.
3. Inmates arriving at a Long-Term Care or Geriatric Unit will be provided with a copy of this policy and applicable attachments during orientation. Inmates will be asked to sign the **Geriatric/Incapacitated/Terminally Ill Parole Policy/Procedure Acknowledgement (CD-050401.D)**.
4. An inmate convicted of first-degree murder shall not be considered eligible for medical or geriatric parole.
5. An inmate who has not served the inmate's minimum sentence may be considered eligible for parole under the medical and geriatric parole program. Medical and geriatric parole shall be in addition to any other parole for which a geriatric, permanently incapacitated or terminally ill inmate may be eligible.

### B. Parole Application:

1. An inmate, a family member of an inmate, an attorney, or an NMCD health care provider may submit an application for medical or geriatric parole to the inmate's classification officer using the **Geriatric/Incapacitated/Terminally Ill Parole Consideration Application (CD-050401.A)**.
2. NMCD shall determine whether to recommend an inmate for medical or geriatric parole and make any recommendations to the parole board no later than 30 days after receipt of the application by the classification officer.

If an application is submitted by or on behalf of a person claiming to be a terminally ill inmate, NMCD shall determine whether to recommend the inmate for medical or geriatric parole within 15 days of the receipt of the inmate's application by the classification officer.

**C. Application Routing:**

1. If an application for medical or geriatric parole is submitted by or on behalf of a person claiming to be a geriatric inmate or permanently incapacitated inmate, the classification officer will have 25 calendar days to forward the completed packet via email to the director. If an application for medical or geriatric parole is submitted by or on behalf of a person claiming to be a terminally ill inmate, the classification officer will have 10 calendar days to forward the completed packet via email to the director.
2. Upon receipt of an application, the classification officer will complete the following:
  - a) Review the application for completeness and verify the inmate meets the age requirement for consideration.
  - b) Provide written notice to the director that an application for medical or geriatric parole has been filed by or on behalf of a person claiming to be a geriatric inmate, permanently incapacitated inmate, or terminally ill inmate.
  - c) Document programming participation and disciplinary history for the requesting inmate on the application form.
  - d) Schedule the inmate for accelerated reentry in accordance with CD-083000. The inmate should be seen at the earliest scheduled reentry meeting.
  - e) Route the application to the facility health services administrator and facility behavioral health unit for review and inclusion of pertinent medical and behavioral health records.
  - f) Route the application to the warden for review, comment, and signature.
  - g) Scan the application, along with all attached documents to the director and ensure the subject line contains the purpose of the email and importance is marked.
3. The facility health services administrator for the healthcare vendor will:
  - a) Review the application, potential needs at time of release, and health status of the inmate.
  - b) Document the recommendations regarding potential needs at time of release and health status of the inmate. All diagnostic tests and consultation reports should be taken into consideration to provide for a comprehensive review of the inmate's needs.
  - c) Attach any pertinent medical records for review and return to the initiating classification officer for tracking and proper routing.

- d) Complete the **Medical Parole Application Worksheet** (*CD-050401.B*) and return to the initiating classification officer for tracking and proper routing.
4. The behavioral health provider will:
  - a) Review the applicant's behavioral health file, particularly with respect to whether the inmate would constitute a danger to the person's own self or society if released.
  - b) Document the recommendations regarding needs at the time of release.
  - c) Attach any pertinent behavioral health records for review and return to the initiating classification officer for tracking and proper routing.
  - d) Complete the **Behavioral Health Parole Application Worksheet** (*CD-050401.C*) and return to the initiating classification officer for tracking and proper routing.
5. The director will be responsible for maintaining a documented spreadsheet of the packet's progress. Once received, the staff will review the packet and enter the information onto the tracking document.
6. The director will forward the application pages to the NMCD health services administrator for review and consultation with the facility medical services.
7. The NMCD health services administrator will:
  - a) Review the application and attached completed packet.
  - b) Add comments regarding recommendations as to the severity of the illness, disease or infirmity and recommendations for care upon release.
  - c) Complete the **Geriatric/Incapacitated/Terminally Ill Parole Consideration Application** (*CD-050401.A*) and return to the director for routing.
8. Upon receipt of the application packet from the health services administrator, the director will review the application and packet information, make a recommendation to the board on whether the application should be granted or denied, and forward it to the parole board for consideration and final determination. If the director cannot meet these deadlines, he or she will document in writing any justification for the delay.
9. When determining an inmate's eligibility for medical or geriatric parole, the director shall consider the totality of the circumstances, including: (1) the inmate's age; (2) the severity of the inmate's illness, disease or infirmity; (3) a comprehensive health evaluation of the inmate; (4) the inmate's institutional behavior, including evidence indicating rehabilitation; (5) the inmate's current level of risk for violence; and (6) any alternative to maintaining the geriatric, permanent incapacitated or terminally ill inmate in a traditional setting. If the director recommends in favor of medical or geriatric parole, the director shall submit a statement to the board that the inmate's release is not incompatible with the welfare of society.

10. If parole is recommended by the director, the release packet will be uploaded to the probation and parole division z:/drive for investigation. If parole is not recommended by the director, and the adult parole board approves release, the release packet will be uploaded for probation and parole division investigation and treated as a priority.

**D. Parole Investigation:**

1. The probation and parole division will investigate all parole plans to include but not be limited to determining the following:
  - a) Residence;
  - b) Other means of support and the accessibility of support systems;
  - c) Determination of the level of supervision required;
  - d) Other factors as outlined in *CD-052600*, PPD placement investigations; and
2. Probation and parole division staff shall forward the parole plan investigation report to the parole board and provide a copy to the inmate's institutional classification officer upon approval of release.

**E. Adult Parole Board Determination:**

1. If an inmate is approved for parole:
  - a. The inmate will not be released until the classification officer makes contact with the inmate's respective probation or parole officer to provide him or her with any updated medical information, the inmate's date and time of departure, the inmate's mode of transportation, and any other pertinent information.
  - b. Inmates under determinate sentence will serve the remainder of their basic sentence and parole period on parole.
  - c. Inmates under indeterminate sentence will serve their remaining sentence on parole.
  - d. Offenders will not be eligible for good time deductions while on parole.
2. If an inmate is denied parole:
  - a. The parole board will notify the inmate and provide service of the copy of the written decision. A copy of the decision will be sent to the secretary of corrections and the warden of the facility in which the inmate resides.
  - b. A copy will be maintained by the director.
  - c. Inmates who have been denied parole may reapply if additional information is received and/or if the inmate's conditions so warrant.

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**GERIATRIC/INCAPACITATED/TERMINALLY ILL**  
**PAROLE CONSIDERATION APPLICATION**

Inmate Name: \_\_\_\_\_ Offender #: \_\_\_\_\_

Current Facility: \_\_\_\_\_ Current Age: \_\_\_\_\_

Type of parole consideration being applied for:

- Geriatric Inmate Parole
- Permanently Incapacitated Inmate Parole
- Terminally Ill Inmate Parole

Brief description of condition: \_\_\_\_\_

*By signing below, I give my consent to release my medical and behavioral health information in accordance with CD-171401. A.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

***Below to be completed by NMCD***

**CLASSIFICATION OFFICER REVIEW:**

Date Received: \_\_\_\_\_

Programming while incarcerated: \_\_\_\_\_

- Meets minimum age requirement, recommend review.
- Scheduled for accelerated reentry.
- Facility medical services review, documented on CD-050401.B
- Facility behavioral health review, documented on CD-050401.C
- Pertinent health care records attached.
- Progress report attached.
- Parole board packet attached.
- Disciplinary history attached.

Signature: \_\_\_\_\_ Date forwarded to director/designee: \_\_\_\_\_

**WARDEN'S REVIEW:**

Comment: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PPD DIRECTOR OR DESIGNEE RECOMMENDATION:**

Grant  Deny

Comment: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**MEDICAL PAROLE APPLICATION WORKSHEET**

Inmate Name: \_\_\_\_\_ Offender #: \_\_\_\_\_ Age: \_\_\_\_\_

At the time of release:

1. What type of medical care best describes subject's needs?
- Hospitalization
  - Convalescent Care (e.g. nursing home, 24-hour home care)
  - General Home Care
  - Other

Comments: \_\_\_\_\_  
\_\_\_\_\_

2. Is the above care addressed by the inmate's parole plan and does it appear that there are resources available to support the plan?
- Yes
  - No; Explain: \_\_\_\_\_

3. The inmate's mobility can best be described as:
- Can move about a room without aide for short periods.
  - Can move about a house without aide for longer periods.
  - Can move around a town without aide.
  - Can move about a room with aide for short periods.
  - Can move about a house with aide for longer periods.
  - Can move around a town with aide.

4. Type of aide required for movement:
- None
  - Cane
  - Walker
  - Wheelchair
  - Physically being aided
  - Oxygen
  - Other; Explain: \_\_\_\_\_

5. Are there any extraordinary concerns surrounding this parole plan (e.g., medication types, contagious disease, isolation, etc.)

Comments: \_\_\_\_\_  
\_\_\_\_\_

6. Pertinent medical health records included:     Yes                     No                     None

**FACILITY MEDICAL SERVICES RECOMMENDATION:**                     Grant                     Deny

Comment: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NMCD HEALTH SERVICES ADMINISTRATOR RECOMMENDATION:**                     Grant                     Deny

Comment: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_





**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Policy/Procedure Acknowledgement**

I, \_\_\_\_\_, acknowledge that I have received a copy of policy (CD-050400) and procedure (CD-050401), and I further acknowledge that it is my responsibility to become familiar with this policy/procedure. If I have questions or if I do not understand any provision of this policy/procedure, I will ask a staff member.

**\_\_\_\_\_ Parole of Geriatric, Permanently Incapacitated, or Terminally Ill Inmates**

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
Date

cc: inmate file