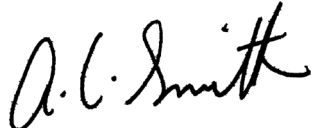




Department of
Rehabilitation & Correction

SUBJECT: Medical Release	PAGE <u> 1 </u> OF <u> 6 </u>
	NUMBER: 66-ILL-01
RULE/CODE REFERENCE: ORC 2967.05, 2929.20, 5120.01; AR 5120:1-1-40	SUPERSEDES: 66-ILL-01 dated 4/05/2016
RELATED ACA STANDARDS:	EFFECTIVE DATE: November 1, 2021
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to establish procedural guidelines pursuant to ORC 2967.05, ORC 2929.20 and Administrative Rule 5120:1-1-40, Medical Release, for incarcerated individuals in imminent danger of death, medically incapacitated, or terminally ill and to establish criteria for consideration of their release as if on parole, judicial release, or executive clemency.

III. APPLICABILITY

This policy shall be applicable to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction (ODRC) and specifically to those who are involved directly or indirectly in the evaluation and processing of incarcerated individuals who are in imminent danger of death, medically incapacitated or terminally ill.

IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the ODRC Intranet at the following:

[Definitions Link](#)

- **Activities of Daily Living (ADLs)**
- **Ambulatory**
- **Imminent Danger of Death**
- **Medically Incapacitated**
- **Terminal Illness**

V. POLICY

It is the policy of the ODRC to assess and monitor the physical condition of incarcerated individuals who are in imminent danger of death, are medically incapacitated, or have a terminal illness and to provide timely consideration for release as if on parole, judicial release, or executive clemency.

VI. PROCEDURES

- A. An incarcerated individual may be considered for release as if on parole, judicial release, or executive clemency and is not required to pursue any one of these options as a prerequisite to pursuing any of the other options.
- B. The eligibility requirements and procedural steps set forth in this policy pertain to a medical release obtained through the Governor's Office as if on parole. Because it is the policy of the ODRC to encourage such decisions be made by local sentencing courts, all considerations for medical release should usually be presented through OCHC Protocol B-35, Medical Judicial Release.
 - 1. Prior to initiating any medical release as if on parole under this policy, the health care administrator (HCA) shall contact ODRC Legal Services to determine whether a judicial release request has been made under OCHC Protocol B-35, Medical Judicial Release.
 - 2. If ODRC Legal Services advises that a medical release as if on parole may be initiated, the procedures set forth below shall apply.
- C. An incarcerated individual is ineligible for medical release as if on parole under this policy if the individual is serving:
 - 1. A death sentence,
 - 2. A sentence of life without parole,
 - 3. A sentence under ORC chapter 2971 (Sentencing of Sexually Violent Predators) for a felony of the first or second degree,
 - 4. A sentence for aggravated murder or murder, or
 - 5. A mandatory prison sentence for an offense of violence or any specification described in ORC chapter 2941 (Indictment).
- D. The HCA shall monitor the condition of patients who may qualify for medical release as if on parole on at least a monthly basis.
 - 1. When an individual's condition progresses to the point where they are in imminent danger of death, medically incapacitated, or have a terminal illness, the HCA shall cause the Chief Medical Officer (CMO) to issue a certificate outlining the diagnosis, the individual's ambulatory status, the current prognosis relative to the individual's medical condition, the minimum placement required to care for the individual, and the medical release category in which the individual falls.
 - 2. The HCA shall send the certificate of the CMO to ODRC Legal Services counsel assigned to the Office of Correctional Healthcare.

- E. Upon receipt of the CMO's certificate, the designated ODRC legal counsel shall investigate the individual's statutory eligibility for a judicial release under ORC section 2929.20, a release as if on parole under ORC section 2967.05, a Parole Board release for those sentenced prior to July 1, 1996 or otherwise subject to the discretionary releasing authority of the Parole Board.
1. Whenever the designated ODRC legal counsel concludes the individual does or does not qualify for medical release as if on parole under this policy, they shall advise the HCA, the Office of Correctional Healthcare, and the Division of Parole and Community Services (DPCS) deputy director that an application for clemency may be submitted to the Parole Board by the individual, their legal representative, a managing officer, or a deputy director of the ODRC.
 2. If ODRC legal counsel concludes the individual is eligible for a judicial release or a release as if on parole, the individual's information shall be forwarded to the DPCS deputy director for further actions consistent with sections VI.D-M of this policy.
 3. If ODRC legal counsel concludes the individual is eligible for consideration for a medical release by the Parole Board, the individual's information shall be forwarded to the DPCS deputy director for further actions consistent with section VI.N of this policy.
 4. Legal Services shall maintain a centralized database of all determinations made under sections VI.E.1-E.3.
- F. Upon receipt of information from Legal Services under section VI.E.2 of this policy, the DPCS deputy director shall consider:
1. The date of expiration of the individual's definite sentence,
 2. The specific crime for which the individual is currently incarcerated and any other felony convictions,
 3. Pre-sentence or offender background investigations,
 4. Past and present institutional adjustment,
 5. The individual's current medical and mental health condition,
 6. Other relevant aggravating or mitigating factors.
- G. Based upon the initial review of the individual's information, the DPCS deputy director shall determine whether a further detailed investigation is warranted. In the event a decision is made not to complete a more detailed investigation due to factors which indicate the individual would not be a good candidate for medical release, the DPCS deputy director shall notify the HCA, the Office of Correctional Healthcare, and Legal Services. Legal Services shall indicate the decision in the database described in section VI.E.4 of this policy.
- H. In the event a decision is made by the DPCS deputy director to conduct a detailed investigation into whether the individual should be medically released, the investigation report shall be completed, and if the DPCS deputy director recommends the medical release, the recommendation and investigation shall be forwarded to the Director and shall include, at a minimum, the following information:
1. Information on the individual's placement in the community,

2. An Institutional Summary Report,
 3. Input from consultations with the sentencing court, county prosecutor and the Office of Victim Services (OVS),
 4. The terms and conditions which would be imposed on the individual,
 5. Information regarding transportation arrangements for the individual.
- I. Upon conclusion of the detailed investigation, the DPCS deputy director shall make a recommendation and notify the HCA, the Office of Correctional Healthcare, and Legal Services. Legal Services shall indicate the completion of the investigation and the recommendation of the DPCS deputy director in the database described in section VI.E.4 of this policy.
- J. If the individual is also eligible for a judicial release, the information in section VI.F may also be forwarded to the sentencing Court of Common Pleas with the exception of the terms and conditions of a medical release as if on parole.
- K. The Director shall consider the complete investigation report, including the recommendation of the DPCS deputy director, the CMO's certificate, and all other associated information from the detailed investigation.
1. In the event the Director recommends a medical release as if on parole, the entire packet shall be forwarded to the Governor with a statement indicating a recommendation for medical release.
 2. The decision of the Director as to whether to recommend a medical release or stop the medical release process shall be communicated to the HCA, the Office of Correctional Healthcare, the DPCS deputy director, and Legal Services. Legal Services shall indicate the decision of the Director in the database described in section VI.E.4 of this policy.
- L. If the Governor authorizes release as if on parole and after the authorization is filed with the Secretary of State and delivered to the managing officer of the institution where the individual is confined, the individual may be released as if on parole. Terms and conditions of such release shall be made a part of the incarcerated individual's file.
1. The managing officer shall forward a copy of the Governor's warrant to the APA superintendent of Field Services, who shall generate a parole certificate in consultation with the designated Parole Board staff member, and
 2. The APA superintendent of Field Services shall notify the ODRC State Medical Director of the individual's impending release, and
 3. The APA superintendent shall notify the OVS so appropriate victim notification may be completed.
- M. If after the individual's release in accordance with section VI.L of this policy the individual's health improves so that they are no longer terminally ill, medically incapacitated, or in imminent danger of death, the individual shall be returned, by order of the Governor, to the institution from which they were released.

- N. If the individual violates any rules or conditions applicable to them, the individual may be returned to an institution under the control of ODRC. The Governor may direct the APA to investigate or cause to be investigated the individual and make a recommendation as to whether the continued release of the individual would further the interests of justice and be consistent with the welfare and security of society.
- O. An individual released under this policy shall be subject to supervision by the APA in accordance with any recommendation of the APA that is approved by the Governor.
- P. If an individual is eligible for consideration for release by the Parole Board, the DPCS deputy director shall forward the CMO's certificate to the Parole Board chair.
1. The Parole Board chair shall review the material submitted by the CMO and may elect to reject the medical release after staffing and making a recommendation to the DPCS deputy director or may cause the matter to be considered by the Parole Board. If submitted to the Parole Board, its options include, but are not limited to:
 - a. Making no change in its original decision,
 - b. Modifying its decision and ordering the individual's release on parole (provided subsequent notice requirements are met).
 2. If the Parole Board elects to release the individual, a release shall be effective as soon as placement can be arranged and approved. The Parole Board shall notify the OVS prior to the release.
 3. The final decision of the Parole Board shall be communicated to Legal Services by the DPCS deputy director to be recorded in the database described in section VI.E.4 of this policy.

Referenced OCHC Protocols:

B-35 Medical Judicial Release