

STATE OF NEW YORK

4220

2025-2026 Regular Sessions

IN SENATE

February 3, 2025

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, in relation to prohibiting medical parole for persons convicted of an act of terrorism

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 259-r of the executive law, as amended by section
2 38-1 of subpart A of part C of chapter 62 of the laws of 2011, the
3 section heading and subdivisions 1, 2, paragraph (b) of subdivision 4,
4 subdivisions 5, 9, 10 and 11 as amended by section 14 of chapter 322 of
5 the laws of 2021, is amended to read as follows:

6 § 259-r. Release on medical parole for terminally ill incarcerated
7 individuals. 1. (a) The [~~board~~] commissioner shall have the power to
8 release on medical parole any incarcerated individual serving an inde-
9 terminate or determinate sentence of imprisonment who, pursuant to
10 subdivision two of this section, has been certified to be suffering from
11 a terminal condition, disease or syndrome and to be so debilitated or
12 incapacitated as to create a reasonable probability that [~~he or she~~]
13 such incarcerated individual is physically or cognitively incapable of
14 presenting any danger to society, provided, however, that no incarcerat-
15 ed individual serving a sentence imposed upon a conviction for [~~murder~~
16 ~~in the first degree or an attempt or conspiracy to commit murder in the~~
17 ~~first degree shall be eligible for such release, and provided further~~
18 ~~that no incarcerated individual serving a sentence imposed upon a~~
19 ~~conviction for any of the following offenses shall be eligible for such~~
20 ~~release unless in the case of an indeterminate sentence he or she has~~
21 ~~served at least one-half of the minimum period of the sentence and in~~
22 ~~the case of a determinate sentence he or she has served at least one-~~
23 ~~half of the term of his or her determinate sentence: murder in the~~
24 ~~second degree, manslaughter in the first degree, any offense defined in~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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~~article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the department prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law]~~ an act of terrorism as defined in section 490.05 of the penal law, shall be eligible for release.

(b) Such release shall be granted only after the [~~board~~] commissioner considers whether, in light of the incarcerated individual's medical condition, there is a reasonable probability that the incarcerated individual, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an incarcerated individual's sentence, notwithstanding any other provision of law.

~~[(c) The board shall afford notice to the sentencing court, the district attorney and the attorney for the incarcerated individual that the incarcerated individual is being considered for release pursuant to this section and the parties receiving notice shall have fifteen days to comment on the release of the incarcerated individual. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.]~~

2. (a) The commissioner, on the commissioner's own initiative or at the request of an incarcerated individual, or an incarcerated individual's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an incarcerated individual who appears to be suffering from a terminal condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department, shall render professional services at the request of the department, or shall be employed by a hospital or medical facility used by the department for the medical treatment of incarcerated individuals. The diagnosis shall be reported to the commissioner and shall include but shall not be limited to a description of the terminal condition, disease or syndrome suffered by the incarcerated individual, a prognosis concerning the likelihood that the incarcerated individual will not recover from such terminal condition, disease or syndrome, a description of the incarcerated individual's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the incarcerated individual is so debilitated or incapacitated as to be severely restricted in [~~his or her~~] their ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the incarcerated individual would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

1 (b) The commissioner, or the commissioner's designee, shall review the
2 diagnosis and may certify that the incarcerated individual is suffering
3 from such terminal condition, disease or syndrome and that the incarcer-
4 ated individual is so debilitated or incapacitated as to create a
5 reasonable probability that ~~[he or she is]~~ they are physically or cogni-
6 tively incapable of presenting ~~[any]~~ a danger to society. ~~[If the~~
7 ~~commissioner does not so certify then the incarcerated individual shall~~
8 ~~not be referred to the board for consideration for release on medical~~
9 ~~parole.]~~ If the commissioner does so certify, then the commissioner
10 shall, within seven working days of receipt of such diagnosis, refer the
11 incarcerated individual ~~[to the board for consideration]~~ for release on
12 medical parole. However, no such ~~[referral of an incarcerated individ-~~
13 ~~ual to the board]~~ release shall be made unless the incarcerated individ-
14 ual has been examined by a physician and diagnosed as having a terminal
15 condition, disease or syndrome as previously described herein at some
16 time subsequent to such incarcerated individual's admission to a facili-
17 ty operated by the department of correctional services.

18 (c) ~~[When the commissioner refers an incarcerated individual to the~~
19 ~~board, the]~~ The commissioner shall provide an appropriate medical
20 discharge plan established by the department. The department is author-
21 ized to request assistance from the department of health and from the
22 county in which the incarcerated individual resided and committed ~~[his~~
23 ~~or her]~~ their crime, which shall provide assistance with respect to the
24 development and implementation of a discharge plan, including potential
25 placements of a releasee. The department and the department of health
26 shall jointly develop standards for the medical discharge plan that are
27 appropriately adapted to the criminal justice setting, based on stand-
28 ards established by the department of health for hospital medical
29 discharge planning. The ~~[board]~~ commissioner may postpone ~~[its]~~ their
30 decision pending completion of an adequate discharge plan, or may deny
31 release based on inadequacy of the discharge plan.

32 3. Any certification by the commissioner or the commissioner's desig-
33 nee pursuant to this section shall be deemed a judicial function and
34 shall not be reviewable if done in accordance with law.

35 4. (a) Medical parole granted pursuant to this section shall be for a
36 period of six months.

37 (b) The ~~[board]~~ commissioner shall require as a condition of release
38 on medical parole that the releasee agree to remain under the care of a
39 physician while on medical parole and in a hospital established pursuant
40 to article twenty-eight of the public health law, a hospice established
41 pursuant to article forty of the public health law or any other place-
42 ment that can provide appropriate medical care as specified in the
43 medical discharge plan required by subdivision two of this section. The
44 medical discharge plan shall state that the availability of the place-
45 ment has been confirmed, and by whom. Notwithstanding any other
46 provision of law, when an incarcerated individual who qualifies for
47 release under this section is cognitively incapable of signing the
48 requisite documentation to effectuate the medical discharge plan and,
49 after a diligent search no person has been identified who could other-
50 wise be appointed as the incarcerated individual's guardian by a court
51 of competent jurisdiction, then, solely for the purpose of implementing
52 the medical discharge plan, the facility health services director at the
53 facility where the incarcerated individual is currently incarcerated
54 shall be lawfully empowered to act as the incarcerated individual's
55 guardian for the purpose of effectuating the medical discharge.

1 (c) Where appropriate, the [~~board~~] commissioner shall require as a
2 condition of release that medical parolees be supervised on intensive
3 caseloads at reduced supervision ratios.

4 (d) The [~~board~~] commissioner shall require as a condition of release
5 on medical parole that the releasee undergo periodic medical examina-
6 tions and a medical examination at least one month prior to the expira-
7 tion of the period of medical parole and, for the purposes of making a
8 decision pursuant to paragraph (e) of this subdivision, that the releas-
9 ee provide the board with a report, prepared by the treating physician,
10 of the results of such examination. Such report shall specifically state
11 whether or not the parolee continues to suffer from a terminal condi-
12 tion, disease, or syndrome, and to be so debilitated or incapacitated as
13 to be severely restricted in [~~his or her~~] their ability to self-ambulate
14 or to perform significant normal activities of daily living.

15 (e) Prior to the expiration of the period of medical parole the
16 [~~board~~] commissioner shall review the medical examination report
17 required by paragraph (d) of this subdivision and may again grant
18 medical parole pursuant to this section; provided, however, that the
19 provisions of [~~paragraph (c) of subdivision one and~~] subdivision two of
20 this section shall not apply.

21 (f) If the updated medical report presented to the [~~board~~] commission-
22 er states that a parolee released pursuant to this section is no longer
23 so debilitated or incapacitated as to create a reasonable probability
24 that [~~he or she is~~] they are physically or cognitively incapable of
25 presenting any danger to society or if the releasee fails to submit the
26 updated medical report then the board may not make a new grant of
27 medical parole pursuant to paragraph (e) of this subdivision. Where the
28 [~~board~~] commissioner has not granted medical parole pursuant to such
29 paragraph (e) the [~~board~~] commissioner shall promptly conduct [~~through~~
30 ~~one of its members,~~] or cause to be conducted by a hearing officer
31 [~~designated by the board,~~] a hearing to determine whether the releasee
32 is suffering from a terminal condition, disease or syndrome and is so
33 debilitated or incapacitated as to create a reasonable probability that
34 [~~he or she is~~] they are physically or cognitively incapable of present-
35 ing any danger to society and does not present a danger to society. If
36 the [~~board~~] commissioner makes such a determination then [~~it~~] such
37 commissioner may make a new grant of medical parole pursuant to the
38 standards of paragraph (b) of subdivision one of this section. At the
39 hearing, the releasee shall have the right to representation by counsel,
40 including the right, if the releasee is financially unable to retain
41 counsel, to have the appropriate court assign counsel in accordance with
42 the county or city plan for representation placed in operation pursuant
43 to article eighteen-B of the county law.

44 (g) The hearing and determination provided for by paragraph (f) of
45 this subdivision shall be concluded within the six month period of
46 medical parole. If the [~~board~~] commissioner does not renew the grant of
47 medical parole, [~~it~~] such commissioner shall order that the releasee be
48 returned immediately to the custody of the department.

49 (h) In addition to the procedures set forth in paragraph (f) of this
50 subdivision, medical parole may be revoked at any time upon any of the
51 grounds specified in paragraph (a) of subdivision three of section two
52 hundred fifty-nine-i of this article, and in accordance with the proce-
53 dures specified in subdivision three of section two hundred fifty-nine-i
54 of this article.

55 (i) A releasee who is on medical parole and who becomes eligible for
56 parole pursuant to the provisions of subdivision two of section two

1 hundred fifty-nine-i of this article shall be eligible for parole
2 consideration pursuant to such subdivision.

3 5. A denial of release on medical parole or expiration of medical
4 parole in accordance with the provisions of paragraph (f) of subdivision
5 four of this section shall not preclude the incarcerated individual from
6 reapplying for medical parole or otherwise affect an incarcerated indi-
7 vidual's eligibility for any other form of release provided for by law.

8 6. To the extent that any provision of this section requires disclo-
9 sure of medical information for the purpose of processing an applica-
10 tion or making a decision, regarding release on medical parole or renewal of
11 medical parole, or for the purpose of appropriately supervising a person
12 released on medical parole, and that such disclosure would otherwise be
13 prohibited by article twenty-seven-F of the public health law, the
14 provisions of this section shall be controlling.

15 7. The commissioner [~~and the chairman of the board~~] shall be author-
16 ized to promulgate rules and regulations for their respective agencies
17 to implement the provisions of this section.

18 8. Any decision made by the [~~board~~] **commissioner** pursuant to this
19 section may be appealed pursuant to subdivision four of section two
20 hundred fifty-nine-i of this article.

21 9. The [~~chairman~~] **commissioner** shall report annually to the governor,
22 the temporary president of the senate and the speaker of the assembly,
23 the chairpersons of the assembly and senate codes committees, the chair-
24 person of the senate crime and corrections committee, and the chair-
25 person of the assembly corrections committee the number of incarcerated
26 individuals who have applied for medical parole; the number who have
27 been granted medical parole; the nature of the illness of the appli-
28 cants, the counties to which they have been released and the nature of
29 the placement pursuant to the medical discharge plan; the categories of
30 reasons for denial for those who have been denied; the number of releas-
31 ees who have been granted an additional period or periods of medical
32 parole and the number of such grants; the number of releasees on medical
33 parole who have been returned to imprisonment in the custody of the
34 department and the reasons for return.

35 [~~10. Notwithstanding any other provision of law, in the case of an~~
36 ~~incarcerated individual whose terminal condition, disease or syndrome~~
37 ~~meets the criteria for medical parole as set forth in paragraph (a) of~~
38 ~~subdivision one of this section, and who is not serving a sentence for~~
39 ~~one or more offenses set forth in paragraph (i) of subdivision one of~~
40 ~~section eight hundred six of the correction law which would render such~~
41 ~~incarcerated individual ineligible for presumptive release, the granting~~
42 ~~of medical parole shall be determined by the commissioner provided that~~
43 ~~a release of such incarcerated individual shall be in accordance with~~
44 ~~subdivision eleven of this section. In such case, the provisions that~~
45 ~~would have applied to and the procedures that would have been followed~~
46 ~~by the board of parole pursuant to this section shall apply to and be~~
47 ~~followed by the commissioner.~~

48 [~~11. (a) After the commissioner has made a determination to grant~~
49 ~~medical parole pursuant to subdivision ten of this section, the commis-~~
50 ~~sioner shall notify the chairperson of the board of parole, or their~~
51 ~~designee who shall be a member of the board of parole, and provide him~~
52 ~~or her with all relevant records, files, information and documentation,~~
53 ~~which includes but is not limited to the criminal history, medical diag-~~
54 ~~nosis and treatment pertaining to the terminally ill incarcerated indi-~~
55 ~~vidual no more than five days from the date of the determination. (b)~~
56 ~~The chairperson or his or her designee shall either accept the commis-~~

~~1 sioner's grant of medical parole, in which case the incarcerated indi-
2 vidual may be released by the commissioner, or conduct further review.
3 This decision or review shall be made within five days of the receipt of
4 the relevant records, files, information and documentation from the
5 commissioner. The chairperson's further review may include, but not be
6 limited to, an appearance by the terminally ill incarcerated individual
7 before the chairperson or his or her designee. (c) After this further
8 review, the chairperson shall either accept the commissioner's grant of
9 medical parole, in which case the incarcerated individual may be
10 released by the commissioner, or the chairperson shall schedule an
11 appearance for the terminally ill incarcerated individual before the
12 board of parole.~~

~~13 In the event the terminally ill incarcerated individual is scheduled
14 to make an appearance before the board of parole pursuant to this subdivi-
15 sion, the matter shall be heard by a panel that does not include the
16 chairperson or any member of the board of parole who was involved in the
17 review of the commissioner's determination.]~~

18 § 2. Paragraph (a) of subdivision 1 of section 259-r of the executive
19 law, as amended by section 14-a of chapter 322 of the laws of 2021, is
20 amended to read as follows,

21 (a) The [~~board~~] commissioner shall have the power to release on
22 medical parole any incarcerated individual serving an indeterminate or
23 determinate sentence of imprisonment who, pursuant to subdivision two of
24 this section, has been certified to be suffering from a terminal condi-
25 tion, disease or syndrome and to be so debilitated or incapacitated as
26 to create a reasonable probability that [~~he or she~~] such incarcerated
27 individual is physically or cognitively incapable of presenting any
28 danger to society, provided, however, that no incarcerated individual
29 serving a sentence imposed upon a conviction for [~~murder in the first~~
30 ~~degree or an attempt or conspiracy to commit murder in the first degree~~
31 ~~shall be eligible for such release, and provided further that no incar-~~
32 ~~cerated individual serving a sentence imposed upon a conviction for any~~
33 ~~of the following offenses shall be eligible for such release unless in~~
34 ~~the case of an indeterminate sentence he or she has served at least~~
35 ~~one-half of the minimum period of the sentence and in the case of a~~
36 ~~determinate sentence he or she has served at least one-half of the term~~
37 ~~of his or her determinate sentence: murder in the second degree,~~
38 ~~manslaughter in the first degree, any offense defined in article one~~
39 ~~hundred thirty of the penal law or an attempt to commit any of these~~
40 ~~offenses. Solely for the purpose of determining medical parole eligibil-~~
41 ~~ity pursuant to this section, such one-half of the minimum period of the~~
42 ~~indeterminate sentence and one-half of the term of the determinate~~
43 ~~sentence shall not be credited with any time served under the jurisdic-~~
44 ~~tion of the department prior to the commencement of such sentence pursu-~~
45 ~~ant to the opening paragraph of subdivision one of section 70.30 of the~~
46 ~~penal law or subdivision two-a of section 70.30 of the penal law, except~~
47 ~~to the extent authorized by subdivision three of section 70.30 of the~~
48 ~~penal law] an act of terrorism as defined in section 490.04 of the penal
49 law, shall be eligible for such release.~~

50 § 3. Section 259-s of the executive law, as amended by chapter 322 of
51 the laws of 2021, is amended to read as follows:

52 § 259-s. Release on medical parole for incarcerated individuals
53 suffering significant debilitating illnesses. 1. (a) The [~~board~~] commis-
54 sioner shall have the power to release on medical parole any incarcerat-
55 ed individual serving an indeterminate or determinate sentence of impri-
56 sonment who, pursuant to subdivision two of this section, has been

1 certified to be suffering from a significant and permanent non-terminal
2 condition, disease or syndrome that has rendered the incarcerated indi-
3 vidual so physically or cognitively debilitated or incapacitated as to
4 create a reasonable probability that ~~[he or she]~~ such incarcerated indi-
5 vidual does not present any danger to society, provided, however, that
6 no incarcerated individual serving a sentence imposed upon a conviction
7 for ~~[murder in the first degree or an attempt or conspiracy to commit~~
8 ~~murder in the first degree shall be eligible for such release, and~~
9 ~~provided further that no incarcerated individual serving a sentence~~
10 ~~imposed upon a conviction for any of the following offenses shall be~~
11 ~~eligible for such release unless in the case of an indeterminate~~
12 ~~sentence he or she has served at least one half of the minimum period of~~
13 ~~the sentence and in the case of a determinate sentence he or she has~~
14 ~~served at least one half of the term of his or her determinate sentence,~~
15 ~~murder in the second degree, manslaughter in the first degree, any~~
16 ~~offense defined in article one hundred thirty of the penal law or an~~
17 ~~attempt to commit any of these offenses. Solely for the purpose of~~
18 ~~determining medical parole eligibility pursuant to this section, such~~
19 ~~one half of the minimum period of the indeterminate sentence and one~~
20 ~~half of the term of the determinate sentence shall not be credited with~~
21 ~~any time served under the jurisdiction of the department prior to the~~
22 ~~commencement of such sentence pursuant to the opening paragraph of~~
23 ~~subdivision one of section 70.30 of the penal law or subdivision two a~~
24 ~~of section 70.30 of the penal law, except to the extent authorized by~~
25 ~~subdivision three of section 70.30 of the penal law] an act of terrorism~~
26 ~~as defined in section 490.05 of the penal law, shall be eligible for~~
27 such release.

28 (b) Such release shall be granted only after the [~~board~~] commissioner
29 considers whether, in light of the incarcerated individual's medical
30 condition, there is a reasonable probability that the incarcerated indi-
31 vidual, if released, will live and remain at liberty without violating
32 the law, and that such release is not incompatible with the welfare of
33 society and will not so deprecate the seriousness of the crime as to
34 undermine respect for the law, and shall be subject to the limits and
35 conditions specified in subdivision four of this section. In making this
36 determination, the [~~board~~] commissioner shall consider: (i) the nature
37 and seriousness of the incarcerated individual's crime; (ii) the incar-
38 cerated individual's prior criminal record; (iii) the incarcerated indi-
39 vidual's disciplinary, behavioral and rehabilitative record during the
40 term of [~~his or her~~] their incarceration; (iv) [~~the amount of time the~~
41 ~~incarcerated individual must serve before becoming eligible for release~~
42 ~~pursuant to section two hundred fifty nine i of this article, (v)] the~~
43 current age of the incarcerated individual and [~~his or her~~] their age at
44 the time of the crime; [~~(vi) the recommendations of the sentencing~~
45 ~~court, the district attorney and the victim or the victim's represen-~~
46 ~~tative, (vii)] (v) the nature of the incarcerated individual's medical
47 condition, disease or syndrome and the extent of medical treatment or
48 care that the incarcerated individual will require as a result of that
49 condition, disease or syndrome; and [~~(viii)] (vi) any other relevant~~
50 factor. Except as set forth in paragraph (a) of this subdivision, such
51 release may be granted at any time during the term of an incarcerated
52 individual's sentence, notwithstanding any other provision of law.~~

53 [~~(c) The board shall afford notice to the sentencing court, the~~
54 ~~district attorney, the attorney for the incarcerated individual and,~~
55 ~~where necessary pursuant to subdivision two of section two hundred~~
56 ~~fifty nine i of this article, the crime victim, that the incarcerated~~

~~1 individual is being considered for release pursuant to this section and
2 the parties receiving notice shall have thirty days to comment on the
3 release of the incarcerated individual. Release on medical parole shall
4 not be granted until the expiration of the comment period provided for
5 in this paragraph.]~~

6 2. (a) The commissioner, on the commissioner's own initiative or at
7 the request of an incarcerated individual, or an incarcerated individ-
8 ual's spouse, relative or attorney, may, in the exercise of the commis-
9 sioner's discretion, direct that an investigation be undertaken to
10 determine whether a diagnosis should be made of an incarcerated individ-
11 ual who appears to be suffering from a significant and permanent non-
12 terminal and incapacitating condition, disease or syndrome. Any such
13 medical diagnosis shall be made by a physician licensed to practice
14 medicine in this state pursuant to section sixty-five hundred twenty-
15 four of the education law. Such physician shall either be employed by
16 the department, shall render professional services at the request of the
17 department, or shall be employed by a hospital or medical facility used
18 by the department for the medical treatment of incarcerated individuals.
19 The diagnosis shall be reported to the commissioner and shall include
20 but shall not be limited to a description of the condition, disease or
21 syndrome suffered by the incarcerated individual, a prognosis concerning
22 the likelihood that the incarcerated individual will not recover from
23 such condition, disease or syndrome, a description of the incarcerated
24 individual's physical or cognitive incapacity which shall include a
25 prediction respecting the likely duration of the incapacity, and a
26 statement by the physician of whether the incarcerated individual is so
27 debilitated or incapacitated as to be severely restricted in [~~his or~~
28 ~~her~~] their ability to self-ambulate or to perform significant normal
29 activities of daily living. This report also shall include a recommenda-
30 tion of the type and level of services and treatment the incarcerated
31 individual would require if granted medical parole and a recommendation
32 for the types of settings in which the services and treatment should be
33 given.

34 (b) The commissioner, or the commissioner's designee, shall review the
35 diagnosis and may certify that the incarcerated individual is suffering
36 from such condition, disease or syndrome and that the incarcerated indi-
37 vidual is so debilitated or incapacitated as to create a reasonable
38 probability that [~~he or she~~] such incarcerated individual is physically
39 or cognitively incapable of presenting any danger to society. If the
40 commissioner does not so certify then the incarcerated individual shall
41 not be referred to the board for consideration for release on medical
42 parole. If the commissioner does so certify, then the commissioner
43 shall, within seven working days of receipt of such diagnosis, [~~refer~~
44 ~~the incarcerated individual to the board for consideration for~~] release
45 the incarcerated individual on medical parole. However, no such refer-
46 ral of an incarcerated individual to the [~~board of parole~~] commissioner
47 shall be made unless the incarcerated individual has been examined by a
48 physician and diagnosed as having a condition, disease or syndrome as
49 previously described herein at some time subsequent to such incarcerated
50 individual's admission to a facility operated by the department.

51 (c) [~~When the commissioner refers an incarcerated individual to the~~
52 ~~board, the~~] The commissioner shall provide an appropriate medical
53 discharge plan established by the department. The department is author-
54 ized to request assistance from the department of health and from the
55 county in which the incarcerated individual resided and committed [~~his~~
56 ~~or her~~] their crime, which shall provide assistance with respect to the

1 development and implementation of a discharge plan, including potential
2 placements of a releasee. The department and the department of health
3 shall jointly develop standards for the medical discharge plan that are
4 appropriately adapted to the criminal justice setting, based on stand-
5 ards established by the department of health for hospital medical
6 discharge planning. [~~The board may postpone its decision pending~~
7 ~~completion of an adequate discharge plan, or may deny release based on~~
8 ~~inadequacy of the discharge plan.~~]

9 3. Any certification by the commissioner or the commissioner's desig-
10 nee pursuant to this section shall be deemed a judicial function and
11 shall not be reviewable if done in accordance with law.

12 4. (a) Medical parole granted pursuant to this section shall be for a
13 period of six months.

14 (b) The [~~board~~] commissioner shall require as a condition of release
15 on medical parole that the releasee agree to remain under the care of a
16 physician while on medical parole and in a hospital established pursuant
17 to article twenty-eight of the public health law, a hospice established
18 pursuant to article forty of the public health law or any other place-
19 ment, including a residence with family or others, that can provide
20 appropriate medical care as specified in the medical discharge plan
21 required by subdivision two of this section. The medical discharge plan
22 shall state that the availability of the placement has been confirmed,
23 and by whom. Notwithstanding any other provision of law, when an incar-
24 cerated individual who qualifies for release under this section is
25 cognitively incapable of signing the requisite documentation to effectu-
26 ate the medical discharge plan and, after a diligent search no person
27 has been identified who could otherwise be appointed as the incarcerated
28 individual's guardian by a court of competent jurisdiction, then, solely
29 for the purpose of implementing the medical discharge plan, the facility
30 health services director at the facility where the incarcerated individ-
31 ual is currently incarcerated shall be lawfully empowered to act as the
32 incarcerated individual's guardian for the purpose of effectuating the
33 medical discharge.

34 (c) Where appropriate, the [~~board~~] commissioner shall require as a
35 condition of release that medical parolees be supervised on intensive
36 caseloads at reduced supervision ratios.

37 (d) The [~~board~~] commissioner shall require as a condition of release
38 on medical parole that the releasee undergo periodic medical examina-
39 tions and a medical examination at least one month prior to the expira-
40 tion of the period of medical parole and, for the purposes of making a
41 decision pursuant to paragraph (e) of this subdivision, that the releas-
42 ee provide the [~~board~~] commissioner with a report, prepared by the
43 treating physician, of the results of such examination. Such report
44 shall specifically state whether or not the parolee continues to suffer
45 from a significant and permanent non-terminal and debilitating condi-
46 tion, disease, or syndrome, and to be so debilitated or incapacitated as
47 to be severely restricted in [~~his or her~~] their ability to self-ambulate
48 or to perform significant normal activities of daily living.

49 (e) Prior to the expiration of the period of medical parole the
50 [~~board~~] commissioner shall review the medical examination report
51 required by paragraph (d) of this subdivision and may again grant
52 medical parole pursuant to this section; provided, however, that the
53 provisions of paragraph (c) of subdivision one and subdivision two of
54 this section shall not apply.

55 (f) If the updated medical report presented to the [~~board~~] commission-
56 er states that a parolee released pursuant to this section is no longer

1 so debilitated or incapacitated as to create a reasonable probability
2 that [~~he or she~~] such parolee is physically or cognitively incapable of
3 presenting [~~any~~] a danger to society or if the releasee fails to submit
4 the updated medical report then the [~~board~~] commissioner may not make a
5 new grant of medical parole pursuant to paragraph (e) of this subdivi-
6 sion. Where the [~~board~~] commissioner has not granted medical parole
7 pursuant to such paragraph (e) the [~~board~~] commissioner shall promptly
8 conduct [~~through one of its members,~~] or cause to be conducted by a
9 hearing officer [~~designated by the board,~~] a hearing to determine wheth-
10 er the releasee is suffering from a significant and permanent non-termi-
11 nal and incapacitating condition, disease or syndrome and is so debili-
12 tated or incapacitated as to create a reasonable probability that [~~he or~~
13 ~~she is~~] they are physically or cognitively incapable of presenting any
14 danger to society and does not present a danger to society. If the
15 [~~board~~] commissioner makes such a determination then [~~it~~] they may make
16 a new grant of medical parole pursuant to the standards of paragraph (b)
17 of subdivision one of this section. At the hearing, the releasee shall
18 have the right to representation by counsel, including the right, if the
19 releasee is financially unable to retain counsel, to have the appropri-
20 ate court assign counsel in accordance with the county or city plan for
21 representation placed in operation pursuant to article eighteen-B of the
22 county law.

23 (g) The hearing and determination provided for by paragraph (f) of
24 this subdivision shall be concluded within the six month period of
25 medical parole. If the [~~board~~] commissioner does not renew the grant of
26 medical parole, [~~it~~] they shall order that the releasee be returned
27 immediately to the custody of the department of correctional services.

28 (h) In addition to the procedures set forth in paragraph (f) of this
29 subdivision, medical parole may be revoked at any time upon any of the
30 grounds specified in paragraph (a) of subdivision three of section two
31 hundred fifty-nine-i of this article, and in accordance with the proce-
32 dures specified in subdivision three of section two hundred fifty-nine-i
33 of this article.

34 (i) A releasee who is on medical parole and who becomes eligible for
35 parole pursuant to the provisions of subdivision two of section two
36 hundred fifty-nine-i of this article shall be eligible for parole
37 consideration pursuant to such subdivision.

38 5. A denial of release on medical parole or expiration of medical
39 parole in accordance with the provisions of paragraph (f) of subdivision
40 four of this section shall not preclude the incarcerated individual from
41 reapplying for medical parole or otherwise affect an incarcerated indi-
42 vidual's eligibility for any other form of release provided for by law.

43 6. To the extent that any provision of this section requires disclo-
44 sure of medical information for the purpose of processing an application
45 or making a decision, regarding release on medical parole or renewal of
46 medical parole, or for the purpose of appropriately supervising a person
47 released on medical parole, and that such disclosure would otherwise be
48 prohibited by article twenty-seven-F of the public health law, the
49 provisions of this section shall be controlling.

50 7. The commissioner [~~and the chair of the board~~] shall be authorized
51 to promulgate rules and regulations for their respective [~~agencies~~]
52 agency to implement the provisions of this section.

53 8. Any decision made by the [~~board~~] commissioner pursuant to this
54 section may be appealed pursuant to subdivision four of section two
55 hundred fifty-nine-i of this article.

1 9. The [~~chair of the board~~] commissioner shall report annually to the
2 governor, the temporary president of the senate and the speaker of the
3 assembly, the chairpersons of the assembly and senate codes committees,
4 the chairperson of the senate crime and corrections committee, and the
5 chairperson of the assembly corrections committee the number of incar-
6 cerated individuals who have applied for medical parole under this
7 section; the number who have been granted medical parole; the nature of
8 the illness of the applicants, the counties to which they have been
9 released and the nature of the placement pursuant to the medical
10 discharge plan; the categories of reasons for denial for those who have
11 been denied; the number of releasees who have been granted an additional
12 period or periods of medical parole and the number of such grants; the
13 number of releasees on medical parole who have been returned to impri-
14 sonment in the custody of the department and the reasons for return.

15 § 4. This act shall take effect immediately; provided, however, that
16 the amendments to paragraph (a) of subdivision 1 of section 259-r of the
17 executive law made by section one of this act shall be subject to the
18 expiration and reversion of such paragraph pursuant to subdivision d of
19 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
20 date the provisions of section two of this act shall take effect.