S T A T E O F N E W Y O R K

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I N S E N A T E

May 18, 2016

Introduced by Sen. HASSELL-THOMPSON -- 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:

Section 1. Section 259-r of the executive law, as amended by section 38-l of subpart A of part C of chapter 62 of the laws of 2011, subdivisions 10 and 11 as added by section 1 of part A of chapter 55 of the laws of 2015, is amended to read as follows:

S 259-r. Release on medical parole for terminally ill inmates. 1. (a) The [board] COMMISSIONER shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for [murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in 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 depart-

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

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ment 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 SUCH RELEASE.

(b) Such release shall be granted only after the [board] COMMISSIONER 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 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 inmate'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 inmate that the inmate 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 inmate. 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 inmate, or an inmate'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 inmate 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 inmates. 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 inmate, a prognosis concerning the likelihood that the inmate will not recover from such terminal condition, disease or syndrome, a description of the inmate'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 inmate is so debilitated or incapacitated as to be severely restricted in his or her 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 inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the inmate is suffering from such terminal condition, disease or syndrome and that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting [any] A danger to society. [If the commissioner does not so certify then the inmate shall not be referred to the board for consideration for release on medical parole.] If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the

inmate [to the board for consideration] for release on medical parole. However, no [such referral of an inmate to the board] RELEASE shall be made unless the inmate has been examined by a physician and diagnosed as having a terminal condition, disease or syndrome as previously described herein at some time subsequent to such inmate's admission to a facility operated by the department of correctional services.

(c) [When the commissioner refers an inmate to the board, the] THE commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The [board] COMMISSIONER may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

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

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

(b) The [board] COMMISSIONER shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the medical discharge.

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

(d) The [board] COMMISSIONER shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the board with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a terminal condition, disease, or syndrome, and to be so debilitated or incapacitated as

to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

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

(f) If the updated medical report presented to the [board] COMMISSIONER states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the [board] COMMISSIONER has not granted medical parole pursuant to such paragraph (e) the [board] COMMISSIONER shall promptly conduct [through one of its members,] or cause to be conducted by a hearing officer [designated by the board,] a hearing to determine whether the releasee is suffering from a terminal condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the [board] COMMISSIONER makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

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

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

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

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

6. To the extent that any provision of this section requires disclosure of medical information for the purpose of processing an application or making a decision, regarding release on medical parole or renewal of medical parole, or for the purpose of appropriately supervising a person released on medical parole, and that such disclosure would otherwise be

prohibited by article twenty-seven-F of the public health law, the provisions of this section shall be controlling.

7. The commissioner [and the chairman of the board] shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

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

9. The [chairman] COMMISSIONER shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to imprisonment in the custody of the department and the reasons for return.

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

11. (a) After the commissioner has made a determination to grant medical parole pursuant to subdivision ten of this section, the commissioner shall notify the chairperson of the board of parole, or their designee who shall be a member of the board of parole, and provide him or her with all relevant records, files, information and documentation, which includes but is not limited to the criminal history, medical diagnosis and treatment pertaining to the terminally ill inmate no more than five days from the date of the determination. (b) The chairperson or his or her designee shall either accept the commissioner's grant of medical parole, in which case the inmate may be released by the commissioner, or conduct further review. This decision or review shall be made within five days of the receipt of the relevant records, files, information and documentation from the commissioner. The chairperson's further review may include, but not be limited to, an appearance by the terminally ill inmate before the chairperson or his or her designee. (c) After this further review, the chairperson shall either accept the commissioner's grant of medical parole, in which case the inmate may be released by the commissioner, or the chairperson shall schedule an appearance for the terminally ill inmate before the board of parole.

In the event the terminally ill inmate is scheduled to make an appearance before the board of parole pursuant to this subdivision, the matter shall be heard by a panel that does not include the chairperson or any

member of the board of parole who was involved in the review of the commissioner's determination.]

S 2. Paragraph (a) of subdivision 1 of section 259-r of the executive law, as amended by section 38-l-1 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(a) The [board] COMMISSIONER shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for [murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in 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 SUCH RELEASE.

S 3. Section 259-s of the executive law, as amended by section 38-m of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

S 259-s. Release on medical parole for inmates suffering significant debilitating illnesses. 1. (a) The [board] COMMISSIONER shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a significant and permanent non-terminal condition, disease or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that he or she does not present any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for [murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in 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 SUCH RELEASE.

(b) Such release shall be granted only after the [board] COMMISSIONER 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 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. In making this determination, the [board] COMMISSIONER shall consider: (i) the nature and seriousness of the inmate's crime; (ii) the inmate's prior criminal record; (iii) the inmate's disciplinary, behavioral and rehabilitative record during the term of his or her incarceration; (iv) [the amount of time the inmate must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (v)] the current age of the inmate and his or her age at the time of the crime; [(vi) the recommendations of the sentencing court, the district attorney and the victim or the victim's representative; (vii)] (V) the nature of the inmate's medical condition, disease or syndrome and the extent of medical treatment or care that the inmate will require as a result of that condition, disease or syndrome; and [(viii)] (VI) any other relevant factor. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an inmate's sentence, notwithstanding any other provision of law.

[(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the inmate and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the inmate is being considered for release pursuant to this section and the parties receiving notice shall have thirty days to comment on the release of the inmate. 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 inmate, or an inmate'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 inmate who appears to be suffering from a significant and permanent non-terminal and incapacitating 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 inmates. The diagnosis shall be reported to the commissioner and shall include but shall not be limited to a description of the condition, disease or syndrome suffered by the inmate, a prognosis concerning the

likelihood that the inmate will not recover from such condition, disease or syndrome, a description of the inmate'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 inmate is so debilitated or incapacitated as to be severely restricted in his or her 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 inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the inmate is suffering from such condition, disease or syndrome and that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the inmate shall not be referred to the board for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, [refer the inmate to the board for consideration for] release THE INMATE on medical parole. However, no such referral of an inmate to the [board of parole] COMMISSIONER shall be made unless the inmate has been examined by a physician and diagnosed as having a condition, disease or syndrome as previously described herein at some time subsequent to such inmate's admission to a facility operated by the department.

(c) [When the commissioner refers an inmate to the board, the] THE commissioner shall provide an appropriate medical discharge plan established by the department. The department is authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. [The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.]

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

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

(b) The [board] COMMISSIONER shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who

could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the medical discharge.

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

(d) The [board] COMMISSIONER shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the [board] COMMISSIONER with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a significant and permanent non-terminal and debilitating condition, disease, or syndrome, and to be so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

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

(f) If the updated medical report presented to the [board] COMMISSIONER states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting [any] A danger to society or if the releasee fails to submit the updated medical report then the [board] COMMISSIONER may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the [board] COMMISSIONER has not granted medical parole pursuant to such paragraph (e) the [board] COMMISSIONER shall promptly conduct [through one of its members,] or cause to be conducted by a hearing officer [designated by the board,] a hearing to determine whether the releasee is suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the [board] COMMISSIONER makes such a determination then [it] HE OR SHE may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

(g) The hearing and determination provided for by paragraph (f) of this subdivision shall be concluded within the six month period of medical parole. If the [board] COMMISSIONER does not renew the grant of medical parole, [it] HE OR SHE shall order that the releasee be returned immediately to the custody of the department of correctional services.

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

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

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

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

7. The commissioner [and the chair of the board] shall be authorized to promulgate rules and regulations for [their] HIS OR HER respective [agencies] AGENCY to implement the provisions of this section.

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

9. The [chair of the board] COMMISSIONER shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole under this section; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to imprisonment in the custody of the department and the reasons for return.

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