

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-l 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.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the incarcerated individual is suffering from such terminal condition, disease or syndrome and that the incarcerated individual is so debilitated or incapacitated as to create a reasonable probability that ~~[he or she is]~~ they are physically or cognitively incapable of presenting ~~[any]~~ a danger to society. ~~[If the commissioner does not so certify then the incarcerated individual 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 incarcerated individual ~~[to the board for consideration]~~ for release on medical parole. However, no such ~~[referral of an incarcerated individual to the board]~~ release shall be made unless the incarcerated individual 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 incarcerated individual's admission to a facility operated by the department of correctional services.

(c) ~~[When the commissioner refers an incarcerated individual 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 incarcerated individual resided and committed ~~[his or her]~~ their 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]~~ their 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 incarcerated individual 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 incarcerated individual'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 incarcerated individual is currently incarcerated shall be lawfully empowered to act as the incarcerated individual's 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 application
10 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-~~

~~sioner's grant of medical parole, in which case the incarcerated individual 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 incarcerated individual 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 incarcerated individual may be released by the commissioner, or the chairperson shall schedule an appearance for the terminally ill incarcerated individual before the board of parole.~~

~~In the event the terminally ill incarcerated individual 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.]~~

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

(a) The ~~[board]~~ commissioner shall have the power to release on medical parole any incarcerated individual 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]~~ such incarcerated individual is physically or cognitively incapable of presenting any danger to society, provided, however, that no incarcerated individual 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 incarcerated individual 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 490.04 of the penal law, shall be eligible for such release.

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

§ 259-s. Release on medical parole for incarcerated individuals suffering significant debilitating illnesses. 1. (a) The ~~[board]~~ commissioner shall have the power to release on medical parole any incarcerated individual 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 incarcerated individual so physically or cognitively debilitated or incapacitated as to create a reasonable probability that ~~[he or she]~~ such incarcerated individual does not present any danger to society, provided, however, that no incarcerated individual 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 incarcerated individual 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 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. In making this determination, the ~~[board]~~ commissioner shall consider: (i) the nature and seriousness of the incarcerated individual's crime; (ii) the incarcerated individual's prior criminal record; (iii) the incarcerated individual's disciplinary, behavioral and rehabilitative record during the term of ~~[his or her]~~ their incarceration; (iv) ~~[the amount of time the incarcerated individual must serve before becoming eligible for release pursuant to section two hundred fifty nine i of this article; (v)]~~ the current age of the incarcerated individual and ~~[his or her]~~ their 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 incarcerated individual's medical condition, disease or syndrome and the extent of medical treatment or care that the incarcerated individual 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 incarcerated individual'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 incarcerated individual and, where necessary pursuant to subdivision two of section two hundred fifty nine i of this article, the crime victim, that the incarcerated~~

~~individual 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 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 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 incarcerated individuals. 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 incarcerated individual, a prognosis concerning the likelihood that the incarcerated individual will not recover from such 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.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the incarcerated individual is suffering from such condition, disease or syndrome and that the incarcerated individual is so debilitated or incapacitated as to create a reasonable probability that ~~he or she~~ such incarcerated individual is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the incarcerated individual 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 incarcerated individual to the board for consideration for~~ release the incarcerated individual on medical parole. However, no such referral of an incarcerated individual to the ~~board of parole~~ commissioner shall be made unless the incarcerated individual 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 incarcerated individual's admission to a facility operated by the department.

(c) ~~When the commissioner refers an incarcerated individual 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 incarcerated individual resided and committed ~~his 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 designee pursuant to this section shall be deemed a judicial function and
10 shall not be reviewable if done in accordance with law.

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

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

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

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

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

54 (f) If the updated medical report presented to the ~~[board]~~ commission-
55 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.