

## CHAPTER 235

**AN ACT** concerning medical parole and amending and supplementing various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to read as follows:

C.30:4-123.51c Conditions for medical parole.

1. a. (1) For the purpose of this section:

“Terminal condition, disease or syndrome” means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has six months or less to live.

“Permanent physical incapacity” means a prognosis that an inmate has a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing.

(2) Except as otherwise provided in paragraph (3) of this subsection, the appropriate board panel may release on medical parole any inmate serving any sentence of imprisonment who has been diagnosed pursuant to subsection b. of this section as suffering from a terminal condition, disease or syndrome or a permanent physical incapacity and is found by the appropriate board panel to be so debilitated or incapacitated by the terminal condition, disease or syndrome or permanent physical incapacity as to be permanently physically incapable of committing a crime if released on parole and, in the case of a permanent physical incapacity, the conditions under which the inmate would be released would not pose a threat to public safety.

The board panel shall state on the record the reasons for granting or denying medical parole.

Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et seq.) to the contrary, the appropriate board panel may release any such inmate at any time during the term of the sentence. An inmate placed on parole pursuant to this section shall be subject to custody, supervision and conditions as provided in section 15 of P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions for a violation of a condition of parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

(3) No inmate serving any sentence for a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course of committing the theft, attempted to kill another, or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon; subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these offenses shall be eligible for the medical parole authorized under paragraph (2) of this section.

b. A medical diagnosis that an inmate is suffering from a terminal condition, disease or syndrome or a permanent physical incapacity, as appropriate, shall be made by two licensed physicians designated by the Commissioner of Corrections. The diagnosis shall include, but not be limited to:

- (1) a description of the terminal condition, disease or syndrome or the permanent physical incapacity;

- (2) a prognosis concerning the likelihood of recovery from the terminal condition, disease or syndrome or the permanent physical incapacity;

(3) a description of the inmate's physical incapacity; and

(4) a description of the type of ongoing treatment that would be required if the inmate were released on medical parole.

c. A request for a medical diagnosis to determine whether an inmate is eligible for a medical parole under this section may be submitted to the appropriate board panel by the Commissioner of Corrections, the administrator or superintendent of a correctional facility; the inmate; a member of the inmate's family or the inmate's attorney. The request shall be submitted in a manner and form prescribed by the board.

d. At least five working days prior to commencing its review of a request for a medical parole, the appropriate board panel shall notify the appropriate sentencing court; county prosecutor or, if the matter was prosecuted by the Attorney General, the Attorney General; and any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice shall be given in the manner prescribed by the board and shall contain all such information and documentation relating to the medical diagnosis prepared pursuant to subsection b. of this section as the board shall deem appropriate and necessary.

Upon receipt of the notice, the sentencing court; county prosecutor or Attorney General, as the case may be; the victim or member of the family of the victim, as the case may be, shall have 10 working days to review the notice and submit comments to the appropriate board panel. If a recipient of the notice does not submit comments within that 10-day period following the receipt of the notice, the panel may presume that the recipient does not wish to submit comments and proceed with its consideration of the request for medical parole. Any comments provided by a recipient shall be delivered to the appropriate board panel in the same manner or by the same method as notice was given by the panel to that recipient.

The information contained in any notice given by a panel pursuant to this subsection and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized to receive or review that information or those comments.

Notice given under the provisions of this subsection shall be in lieu of any other notice of parole consideration required under P.L.1979, c.441 (C.30:4-123.45 et seq.).

Nothing in this subsection shall be construed to impair any party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

e. The appropriate board panel shall conduct its review of a request for medical parole as expeditiously as possible.

The appropriate board panel shall provide written notice of its decision to the sentencing court; the county prosecutor or Attorney General, as the case may be; and any victim or member of a victim's family given notice pursuant to subsection d. of this section.

f. Whenever an inmate is granted medical parole pursuant to this section, the appropriate board shall require, as a condition precedent to release, that the inmate's release plan include:

(1) identification of a community sponsor;

(2) verification of the availability of appropriate medical services sufficient to meet the treatment requirements identified pursuant to paragraph (4) of subsection b. of this section; and

(3) verification of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility or other housing accommodation suitable to the inmate's medical condition, disease or syndrome or permanent physical incapacity.

The Parole Board shall ensure that any inmate who is an applicant for medical parole is provided an opportunity to apply, and is provided necessary assistance to complete the application, for medical assistance benefits under the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) prior to any determination of ineligibility by the board panel as a result of the inability to verify the availability of appropriate medical services, as required pursuant to paragraph (2) of this subsection.

g. In addition to any conditions imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical parole, the appropriate board panel may require an inmate to submit to periodic medical diagnoses by a licensed physician.

h. If, after review of a medical diagnosis required under the provisions of subsection g. of this section, the appropriate board panel determines that a parolee released on medical parole is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome or by a permanent physical incapacity as to be physically incapable of committing a crime or, in the case of a permanent physical incapacity, the parolee poses a threat to public safety, the parolee shall be returned to confinement in an appropriate facility designated by the Commissioner of Corrections.

A decision to return the parolee to confinement pursuant to this subsection shall be rendered only after a hearing by the appropriate board panel or by a hearing officer designated by the chairman of the board. Nothing in this subsection shall be construed to limit the authority of the board, an appropriate board panel or parole officer of the State Parole Board to address a violation of a condition of parole pursuant to sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

i. The denial of a request for medical parole or the return of a parolee to confinement under the provisions of subsection h. of this section shall not preclude that inmate from being considered for parole pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51).

2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to read as follows:

C.30:4-123.48 Policies, determinations of parole board.

4. a. All policies and determinations of the Parole Board shall be made by the majority vote of the members.

b. Except where otherwise noted, parole determinations on individual cases pursuant to this act shall be made by the majority vote of a quorum of the appropriate board panel established pursuant to this section.

c. The chairman of the board shall be the chief executive officer of the board and, after consulting with the board, shall be responsible for designating the time and place of all board meetings, for appointing the board's employees, for organizing, controlling and directing the work of the board and its employees, and for preparation and justification of the board's budget. Only the employees in those titles and positions as are designated by the Civil Service Commission shall serve at the pleasure of the chairman and shall not be subject to the provisions of Title 11A of the New Jersey Statutes. All other employees, including hearing officers, shall be in the career service and subject to the provisions of Title 11A of the New Jersey Statutes. All such career service employees who are employed by the State Parole Board on September 5, 2001, and in the case of hearing officers, those who have been employed by the State Parole Board for a period of at least one year prior to the effective date of P.L.2005, c.344, shall have permanent career service status with seniority awarded from the date of their appointments. Parole officers assigned to supervise adult parolees and

all supervisory titles associated with the supervision of adult parolees in the parole officer series shall be classified employees subject to the provisions of Title 11A of the New Jersey Statutes. Parole officers assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer job classification series shall be organizationally assigned to the State Parole Board with a sworn member of the Division of Parole appointed to act as director of parole supervision. The director of parole supervision shall report directly to the Chairman of the State Parole Board or to such person as the chairman may designate.

d. The board shall promulgate such reasonable rules and regulations, consistent with this act, as may be necessary for the proper discharge of its responsibilities. The chairman shall file such rules and regulations with the Secretary of State. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to the promulgation of rules and regulations concerning policy and administration, but not to other actions taken under this act, such as parole hearings, parole revocation hearings and review of parole cases. In determination of its rules and regulations concerning policy and administration, the board shall consult the Governor, the Commissioner of Corrections and the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

e. The board, in conjunction with the Department of Corrections and the Juvenile Justice Commission, shall develop a uniform information system in order to closely monitor the parole process. Such system shall include participation in the Uniform Parole Reports of the National Council on Crime and Delinquency.

f. The board shall transmit a report of its work for the preceding fiscal year, including information on the causes and extent of parole recidivism, to the Governor, the Legislature and the Juvenile Justice Commission annually. The report shall include information regarding medical parole including, but not limited to, the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole. The report also may include relevant information on compliance with established time frames in the processing of parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and any recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

g. The board shall give public notice prior to considering any adult inmate for release.

h. The board shall give notice to the appropriate prosecutor's office and to the committing court prior to the initial consideration of any juvenile inmate for release.

C.30:4D-6l Enrollment in Medicaid for medical parolee.

3. Any inmate who is an applicant for medical parole pursuant to the provisions of section 1 of P.L.1997, c.214 (C.30:4-123.51c) shall not be denied enrollment into the Medicaid program on the sole basis that the applicant is an inmate in a correctional facility. For an inmate who becomes enrolled in Medicaid while incarcerated in a correctional facility, payments for medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.) shall commence upon the inmate's release from the correctional facility.

4. This act shall take effect on the first day of the seventh month after enactment.

Approved September 13, 2017.