# STATE OF LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS CORRECTIONS SERVICES

Health Care Policy No. HCP41



12 June 2018

# INSTITUTIONAL SERVICES / HEALTH CARE POLICIES Health Care Policy – Medical Release Procedures Compassionate Release

- OBJECTIVE: To identify DPS&C offenders who represent a low public safety risk due to their significant health conditions and consider these offenders for compassionate release.
- 2. REFERENCES: ACA Standards 4-4347 and 4-4357 (Adult Correctional Institutions); La. R.S. 15:574.4.2 and 15:833.2; Department Regulation Nos. IS-E-1 "Sex Offender Notification, Registration Requirements and Residence Plan," HCP15 "Continuity of Care," HCP21 "Communicable and Infectious Diseases Infection Control Program," HCP24 "Human Immunodeficiency Virus (HIV)," HCP7 "Pharmaceuticals," IS-F-1 "Release Procedures," PS-C-1 "Louisiana Prisoner Reentry," OP-C-12 "DNA Protocols," PS-H-1 "Crime Victims Services Bureau, JO-1 "Basic Jail Guidelines," and P&P-1 "Probation and Parole Officer's Manual."
- 3. **POLICY**: It is the Secretary's policy that the Department shall have procedures to efficiently identify limited mobility offenders or terminally ill offenders who, due to a medical condition, represent a low public safety risk and consider these offenders for compassionate release. Compassionate release shall be approved by the Secretary, pursuant to the provisions of this policy.
- 4. APPLICABILITY: Deputy Secretary, Chief of Operations, Department's Medical/Mental Health Director, Department's Chief Nursing Officer, Director of Probation and Parole, Regional Wardens, Wardens and Sheriffs or Administrators of local jail facilities where state offenders are housed. Each Unit Head shall be responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this policy.

#### 5. **DEFINITIONS**:

A. Compassionate Release: A temporary leave of absence from secure custody for limited (medical) purposes for offenders who, because of a medical condition, are determined by the Department to be a limited mobility offender or terminally ill offender.

- B. **Health Care Facility**: For the purpose of this regulation, an acute care hospital, nursing home or other licensed medical facility which complies with all state and federal laws and regulations that is appropriate to meet the offender.
- C. **Health Care Personnel**: Individuals whose primary duty is to provide health services to offenders in keeping with their respective levels of health care training or experience.
- D. **Health Care Practitioner**: Clinicians trained to diagnose and treat patients, such as physicians, dentists, psychologists, podiatrists, optometrists, nurse practitioners, and physician assistants.
- E. Limited Mobility Offender: For the purpose of this regulation, any offender who, due to an underlying medical condition, is unable to perform activities of daily living without significant assistance or is confined to a bed or chair, including but not limited to prolonged coma and mechanical ventilation. Limited mobility offenders shall only be discharged to a health care facility.

NOTE: This definition of limited mobility offender is specific to compassionate release. (See Department Regulation No. HCP46 "Medical Treatment Furlough" for the definition of limited mobility offender specific to medical treatment furlough.)

- F. **Multidisciplinary Team**: For the purpose of this regulation, a team that includes at a minimum, representatives from the following areas: Warden or designee, Medical Department, Mental Health Department, Classifications, and Security.
- G. **Terminally III Offender**: For the purpose of this regulation, any offender who is diagnosed with a terminal illness and death is expected within sixty days. Terminally ill offenders shall only be discharged to a health care facility or a home-setting which is able to meet the needs of the offender.

NOTE: This definition of terminally ill offender is specific to compassionate release. (See Department Regulation No. HCP42 "Medical Parole" for the definition of terminally ill offender specific to medical parole.)

#### 6. COMPASSIONATE RELEASE ELIGIBILITY:

A. Non-Medical Criterion

Any offender sentenced to the custody of DPS&C may be considered for compassionate release by the Secretary, except an offender sentenced to death.

#### B. Médical Criteria

- 1) Any limited mobility offender or terminally ill offender may be considered for compassionate release.
  - a. Limited mobility offenders shall require rehabilitative and/or ongoing skilled nursing care to complete activities of daily living, such as bathing, dressing, transferring, toileting, and eating.
    - i. Limited mobility offenders shall be discharged to a health care facility and shall meet the individual admission requirements for the health care facility.
  - b. Terminally ill offenders shall require end of life care.
    - i. If being discharged to a health care facility, the terminally ill offender shall meet the individual admission requirements for the health care facility.
    - ii. If being discharged to a home-setting, the terminally ill offender shall meet the admission requirements to be admitted to Hospice or a home health program.
  - c. Generally, compassionate release consideration shall not be given to an offender when the offender's medical condition was present at the time of sentencing, unless the offender's overall condition has significantly deteriorated since that time.

NOTE: Medical criteria is only one of the many factors in determining the suitability of an offender for a compassionate release. A multidisciplinary team conducts a thorough assessment, including a public safety risk assessment.

#### 7. COMPASSIONATE RELEASE PROCEDURES:

A. The Warden at each institution shall appoint a multidisciplinary team to evaluate every compassionate release request. The staff appointed to this team shall be permanently assigned unless the team member's position changes.

- B. Any treating health care practitioner with knowledge of an offender's terminal illness or limited mobility may initiate the process by completing a Medical Criteria Screening Form (Form HCP41-a) and submitting it to the Unit Medical Director for consideration.
- C. In addition, any staff, including, but not limited to, health care personnel, Wardens, and Headquarters' Medical staff with knowledge of an offender's terminal illness or limited mobility may request the Unit Medical Director to review the offender for compassionate release consideration.
- D. The Unit Medical Director or designee shall:
  - 1) Evaluate every Medical Criteria Screening Form (Form HCP41-a) received and, based solely on the offender's medical information, advise that the offender:
    - a. Meets the medical criteria for compassionate release consideration; or
    - b. Does not meet the medical criteria for compassionate release consideration.

NOTE: The Unit Medical Director's evaluation shall be objective and fact-based regarding the only the offender's medical condition meeting or not meeting the medical criteria.

- 2) If the Unit Medical Director advises that the offender meets the medical criteria and recommends the offender for compassionate release:
  - a. Complete the Unit Medical Director's portion of the Recommendation for Compassionate Release (Form HCP41-b) by evaluating and providing information on the offender's medical condition and submit to the Unit Warden for review.
- 3) If the Unit Medical Director declines to recommend the offender for compassionate release consideration:
  - Send notification of declination to the Warden and the Department's Chief Nursing Officer for data collection and tracking; and

b. File the Medical Criteria Screening Form (Form HCP41-a) in the offender's medical record.

#### E. The Unit Warden or designee shall:

- 1) Ensure that multidisciplinary team members provide pertinent information relative to their discipline to aid in determining an offender's suitability for compassionate release and document this information on such form:
- 2) Evaluate every Recommendation for Compassionate Release (Form HCP41-b) received; and
- 3) Complete the Unit Warden's portion of the Recommendation for Compassionate Release (Form HCP41-b) by evaluating and providing information on the offender's offense(s)/conviction(s) and available information regarding his time incarcerated and:
  - Recommending the offender for compassionate release consideration and submitting the Recommendation for Compassionate Release (Form HCP41-b) to the Department's Chief Nursing Officer for processing; or
  - b. Declining recommending the offender for compassionate release consideration, sending notice of declination to the Department's Chief Nursing Officer for data collection and tracking, and filing the Recommendation for Compassionate Release (Form HCP41-b) in the offender's medical record.

## F. The Department's Medical/Mental Health Director shall:

- 1) Evaluate every Recommendation for Compassionate Release (Form HCP41-b) received for compliance with applicable law and policy, and
- 2) Complete the Department's Medical/Mental Health Director's portion of the recommendation by:
  - a. Recommending the offender for compassionate release consideration and submitting it to the Department's Secretary for review, or
  - b. Declining to recommend the offender for compassionate release consideration and sending notification of declination

to the Warden and the Department's Chief Nursing Officer for data collection and tracking.

- G. The Department's Secretary shall:
  - 1) Evaluate every Recommendation for Compassionate Release (Form HCP41-b) received, and
  - 2) Complete the Department's Secretary's portion of recommendation by:
    - a. Granting the offender compassionate release;
    - b. Seeking additional information prior to rendering a decision regarding compassionate release; or
    - c. Declining to grant the offender compassionate release and sending notification of declination to the Warden and the Department's Chief Nursing Officer for data collection and tracking.
- H. Declination of Compassionate Release Request

In the event that a compassionate release request is declined at any point, reconsideration may be granted upon re-initiation of the process at the unit level.

- I. Compassionate Release Discharge Planning
  - 1) Residence Plan Based on Medical Condition
    - a. Terminally ill offenders shall be discharged to either a health care facility or a home-setting which is able to meet the needs of the offender.
    - b. Limited mobility offenders shall only be discharged to a health care facility.
  - 2) The Unit Health Authority or designee shall:
    - a. Ensure that each offender's discharge planning begins prior to the offender's approval of compassionate release and is completed immediately upon approval of compassionate release, in accordance with the provisions of this regulation, Department Regulation Nos. HCP15 "Continuity of Care," IS-

- F-1 "Release Procedures," PS-C-1 "Louisiana Prisoner Reentry," and each unit's discharge policy;
- b. Ensure that the offender is enrolled in Medicaid or a health insurance plan prior to discharge;
- c. Ensure that the appropriate residence plan based on the offender's medical condition is secured, in accordance with Section 7.I.1) of this regulation, and that a Residence Agreement (Form HCP41-d) is completed for terminally ill offenders being discharged to a home-setting;
- d. Ensure that copies of the offender's pertinent medical records accompany the offender upon discharge and that a verbal report has been given to the receiving health care facility or home-setting;
- e. Ensure that the offender is offered "opt-out" HIV testing, unless the offender is known to be HIV positive or had a documented HIV test within the previous 12 months prior to discharge, pursuant to La. R.S. 15:574.4.2 and Health Care Policy No. HCP24 "Human Immunodeficiency Virus (HIV);" and
- f. Ensure that an adequate supply of medication is accompanying the offender upon discharge if the offender is being discharged to a home-setting, pursuant to Health Care Policy No. HCP7 "Pharmaceuticals."
- 3) The Unit Warden or designee shall:
  - a. Ensure that prior to an offender's discharge on compassionate release, the offender's DNA sample has been obtained and transmitted to the state DNA database maintained and administered by the Office of State Police, pursuant to Department Regulation No. OP-C-12 "DNA Protocols;"
  - b. Determine whether there is a Victim Notice and Registration (Form PS-H-1-a) on file and, if applicable, notify the victim(s) or family member(s)by certified mail (with return receipt requested), pursuant to Department Regulation No. PS-H-1 "Crime Victims Services Bureau;" and

- c. If a sex offender is granted compassionate release, make all required notifications, pursuant to Department Regulation No. IS-E-1 "Sex Offender Notification, Registration Requirements and Residence Plan."
- 4) The Department's Chief Nursing Officer shall be responsible for notifying the Division of Probation and Parole of the offender's compassionate release case.

#### J. Term of Compassionate Release

- 1) The term of an offender granted compassionate release shall be for the remainder of the offender's sentence, unless otherwise revoked, in accordance with Section 7.K. of this regulation.
- Offenders granted compassionate release shall earn diminution of sentence while on compassionate release if otherwise eligible to earn diminution of sentence. If an offender on compassionate release earns diminution of sentence so that the offender is eligible for good time parole supervision, the compassionate release shall be converted to good time parole supervision on the date the offender successfully becomes eligible for good time parole supervision.

### K. Cφmpassionate Release Supervision and Revocation

- Supervision of an offender granted compassionate release shall consist of visits by the Division of Probation and Parole, in accordance with Probation and Parole Officer's Manual. (See Department Regulation No. P&P-1 "Probation and Parole Officer's Manual" for more information.)
- If it is discovered through the supervision of the offender granted compassionate release that his condition has improved such that he would not then be eligible for compassionate release under the provisions of this policy, the Division of Probation and Parole shall report these findings to the Department's Medical/Mental Health Director within five business days.
- Any offender whose compassionate release is revoked due to an improvement in his condition, and who would otherwise be eligible for parole, may then be considered for traditional parole.

- 4) Any offender whose compassionate release is revoked shall resume serving the balance of his sentence, with credit given for the duration of the compassionate release.
- Any offender granted compassionate release who is discharged from a healthcare facility or who absconds shall have his compassionate release immediately revoked.

#### 8. MONITORING REQUIREMENTS/REPORTS:

- A. The Unit Health Authority or designee shall identify all offenders who meet the medical criteria for a compassionate release consideration and submit a quarterly report to the Chief Nursing Officer which includes, but is not limited to, the following information on each identified offender:
  - 1) Name;
  - 2) DOC number;
  - 3) Age;
  - 4) Medical/mental health diagnosis;
  - 5) Current medical treatment;
  - 6) Assistance required;
  - 7) Housing location;
  - 8) Time served;
  - 9) GTPS date;
  - 10) Full term date; and
  - 11) If the offender is currently serving time for a sex offense.
- B. The Department's Chief Nursing Officer shall submit a quarterly report to the Secretary which includes, but is not limited to:
  - 1) The number of offenders who meet the medical criteria for compassionate release consideration;
  - 2) The number of offenders who were granted a compassionate release; and
  - The number of offenders who were declined to be recommended for compassionate release consideration at any point during the process outlined in this regulation.
- C. The Division of Probation and Parole shall:
  - Monitor offenders that have been granted a compassionate release in accordance with Probation and Parole Officer's Manual until the offender's death or the expiration of sentence, and

- 2) Submit a monthly report of all compassionate releases to the Secretary and the Department's Chief Nursing Officer. The report shall include, but is not limited to, the following information on each offender granted a compassionate release:
  - a. Name;
  - b. DOC number;
  - c. Location:
  - d. Date the compassionate release was granted;
  - e. Date the offender left the unit on a compassionate release;
  - f. Latest narrative report from the Probation and Parole officer;
  - g. Date and time of death, if indicated; and
  - h. Any other information deemed appropriate.

#### 9. DPS&C OFFENDERS HOUSED IN NON-DPS&C FACILITIES:

- A. A DPS&C offender housed in a non-DPS&C facility shall be considered for a compassionate release in the same manner as a DPS&C offender housed in a DPS&C facility.
- B. Compassionate release eligibility for a DPS&C offender housed in a non-DPS&C facility shall be in accordance with Section 6. of this regulation.
- C. Compassionate Release procedures for a DPS&C offender housed in a non-DPS&C facility shall be as follows:
  - 1) A physician, if available, shall complete the Unit Medical Director's portion of the Recommendation for Compassionate Release (Form HCP41-b) by evaluating and providing information on the offender's medical condition and submitting it to the Warden for review.
  - 2) If a physician is unavailable, the Department's Medical/ Mental Health Director shall coordinate with the non-DPS&C facility to complete the Unit Medical Director's portion of the Recommendation for Compassionate Release (Form HCP41-b)
  - The Warden shall complete the Unit Warden's portion of the Recommendation for Compassionate Release (Form HCP41-b) and submit to the Department's Chief Nursing Officer.

NOTE: The Unit Medical Director's portion of the Recommendation Compassionate Release (Form HCP41-b) may be omitted if a physician is unavailable to complete. In such cases, the Warden shall also submit any pertinent medical records.

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4) The remaining compassionate release procedures shall be in accordance with Sections 7.F. through 7.K. of this regulation.

### s/James M. Le Blanc

Secretary

Attachment:

HCP41

Flow Chart for Compassionate Release, Medical

Parole, and Medical Treatment Furlough

Forms:

HCP41-a

Medical Criteria Screening Form

HCP41-b

Recommendation for Compassionate Release

HCP41-d

Residence Agreement

PS-H-1-a

Victim Notice and Registration

This policy supersedes Health Care Policy No. HC-06 dated 16 June 2016.

Reviewed as of: October 1, 2019

Form: C-01-007-A 14 June 2012

# Louisiana Department of Public Safety and Corrections Victim Notice and Registration

As an individual affected by the criminal acts of another person, you have a right to participate in the justice system. If the individual who committed the crime has been sentenced to state custody and you want information about his status or the Department's policies and programs or your rights and responsibilities, you may contact the Crime Victims Services Bureau at the number below or consult the agency's web site at <a href="https://www.doc.louisiana.gov">www.doc.louisiana.gov</a>.

Complete this form and mail or fax it to the address below if you wish to be notified when the offender who committed a crime against you makes a successful court appeal, is placed in a transitional work program or released from physical custody, escapes, or is scheduled for a Board of Pardons or Committee on Parole hearing.

Crime Victims Services Bureau
P.O. Box 94304, Baton Rouge, LA 70804-9304
Toll-free telephone number: 888-342-6110
Fax number: 225-342-3095

Your request shall be kept confidential.

To receive notification, you must maintain a correct address and/or telephone number with the CVSB

10 receive notineat	on, you must maintain a correct address and/or telephone number with the CVSB.			
Person requesting Notification:	Name of direct victim (if not the same):			
Address:	Telephone No. H ()			
	W ()			
E-Mail Address				
You are (check one):	Direct victim of offense Witness to offense Parent/Guardian of victim			
Other (explain):	Relationship to offender (if any):			
Offender's Name:	Offender's DOC No			
Offender's DOB:	Offense*			
Parish of Conviction and	Court Docket No.:			
Length of Sentence:	Date of Sentencing:			
If the offense was a	If the offense was a sex offense, was the victim under age 18 at the time the crime was committed?			
YesNo	o If Yes give victim's DOB( / / ) and age at the time of the crime:			
Are you or any of your family members employed by the Department of Public Safety and Corrections at a state prison? If yes, please indicate which facility:				
Offenders are generally prohibited from writing their victims. However, in the future, if the offender who harmed you wrote a letter accepting responsibility for the crime and the harm it caused, would you want to know that such a etter existed? Yes No				
A 24-hour offender locator service is available through the Louisiana Automated Victim Notification System (LAVNS): toll-free at 866-528-6748 or on line at <a href="https://www.vinelink.com">www.vinelink.com</a> . For location and possible release date, you may also call 225-383-4580.				
Jate request received in	DPS&C:By whom?			

Form HC-06-A 14 June 2018	MEDICAL CRITERIA SCREENING FORM				
DATE:					
Offender Name:		DOC#:			
Age:		Sex: Male Female			
Current Offense:					
Persistent vegetative Totally confined to a l Life expectancy <a></a> <a><a></a> <a><a><a><a><a><a><a><a><a><a><a><a><a>&lt;</a></a></a></a></a></a></a></a></a></a></a></a></a></a>	ed or chair 1 year	<u></u>			
	Activities of Daily	<u>Living</u>			
Select one for each ADL:  Eating	□3 □4 □3 □4 □3 □4 □3 □4 □3 □4	<ol> <li>Requires complete assistance</li> <li>Requires limited assistance.</li> <li>Requires some assistance.</li> <li>Requires no assistance.</li> </ol>			
	<u>Diagnoses</u>				
Heart failure (e.g. cor	one or more: numatic brain injury raplegia ilepsy spiratory failure ronary artery disease (e.g. angina, myocardial infarction and atherosclerotic heart disease) art failure (e.g. congestive heart failure, pulmonary edema) rebrovascular Accident (CVA), Transient Ischemic Attack (TIA) or Stroke				
Health Care Practitioner	Name (Print) Title	<u> </u>			
Health Care Practitioner	Signature Date	<b>9</b>			
<ul> <li>Unit Medical Director Evaluation</li> <li>Based solely on the offender's medical information, the offender:         <ul> <li>Meets the medical criteria for consideration of compassionate release, medical parole, or medical treatment furlough.</li> <li>Does not meet the medical criteria for consideration of compassionate release, medical parole, or medical treatment furlough.</li> </ul> </li> </ul>					
Unit Medical Director Nar	ne (Print)				
Unit Medical Director Sig	nature Date	e			

Form HC-06-B 14 June 2018

# RECOMMENDATION FOR COMPASSIONATE RELEASE

# I. Unit Medical Director Evaluation

Offender Name:  Age: Facility Offender is Currently Located:  Medical Diagnosis:  Prognosis:  Medical Condition Present at the Time of Sentencing: Yes No	
Medical Diagnosis:  Prognosis:	
Prognosis:	
Medical Condition Present at the Time of Sentencing: Yes No	
Comments:	
If Yes, Overall Condition Deteriorated Since Sentencing: Yes No Comments:	
Nature of Terminal Illness or Limited Mobility (Provide a Medical Summary):	
General Physical Condition:	
Current Plan of Care (Including Any Treatments Required):	
Extent of Help Needed with Activities of Daily Living: (e.g. bathing; continence manager feeding; dressing; getting out of bed; ambulating with wheelchair, walker, cane; etc.):	nent;
Proposed Housing Plans If Compassionate Release is Approved:  Health Care Facility (Acute Care Hospital, Nursing Home, or Other Licensed Medical Home-Setting (*must be admitted to hospice or home-health)  Address:	Facility)
Recommendation: In my medical opinion, this offender's condition meets the medical crite Compassionate Release as defined in the Department Regulation No. HC-06-A "Compassionate Release" because:  Offender is unable to perform activities of daily living without significant assistance or confined to a bed or chair.  Offender is diagnosed with a terminal illness and death is expected within 60 days.	onate
Unit Medical Director Date	_

Form HC-06-B 14 June 2018 Page Three

# RECOMMENDATION FOR COMPASSIONATE RELEASE

# II. Warden Evaluation (Continued)

Includ		Supporting Documentation: nder's current physical condition, showing the extent of the offender's terminal nobility
	or condition preve in private, withou	health care personnel describing (1) the nature of the offender's terminal illness enting mobility and (2) the offender's current general physical condition (recorded the offender being present).  In an terms as much as possible.
	Multidisciplinary to	eam response and any supporting documentation.
Pacar	nmendation:	
	In my opinion, the	above-named offender does not pose a high risk to himself or to society and elease consideration is appropriate.
		above-named offender does pose a high risk to himself or to society and elease consideration is not appropriate.
Comm	ents:	
Unit W	/arden	Date

Form HC-06-D 14 June 2018

# **RESIDENCE AGREEMENT**

Offender Name:		DOC #:			
The above-named offer Date	der has been granted a compassionate release commencing at the following:				
Time AM	РM				
	Offender Agreement				
certify that I am the above-named offender and I agree to abide by the below rules. I understand that by failure to follow these rules may result in disciplinary action and suspension of compassionate elease and, if applicable, prosecution on criminal charges.					
health care factinstitutional staff  2. I will not engage engaged in any of a limit of the state	I will remain within the boundaries of Parish and at my approved home-setting or health care facility, unless otherwise authorized by my Probation and Parole Officer or institutional staff member assigned as liaison.  I will not engage in any type of criminal activities, nor will I associate with anyone known to be engaged in any criminal activities.  I will not have in my possession any firearms or other dangerous weapons, nor consume or possess any alcoholic beverages or illegal narcotic drugs.				
test at any time it. 5. I agree to report	as a condition of my compassionate release, I agree to submit to a urinalysis equested and assume the cost of the test. immediately any arrest, problem or unusual occurrence to my Probation and institutional staff member assigned as liaison.				
<ol> <li>I will not operate</li> <li>Special Conditio</li> </ol>	a motor vehicle. ns:				
Offender Signature		Date			
	Responsible Party Agreer	<u>ment</u>			
The above-named offe	ender shall reside with:				
Name: Relationship: Address: Phone Number:	THOSE SHAM TOSIGO WITH.				
I certify that I am the above-named responsible party and that the above-named offender will reside with me at the address provided. I agree to accept responsibility for the above-named offender and agree to provide all necessary transportation for the above-named offender.					
Responsible Party Sign	ature	Date			
Warden/Designee Nam	e (Print)	Title			
Warden/Designee Signa	ature	Date			

# Medical Release Flowchart 12 June 2018

