

# Memorandum

Date : June 16, 2014

Subject: **EXPANDED MEDICAL PAROLE**

The purpose of this memorandum is to provide an overview of the new Expanded Medical Parole process. On February 10, 2014, the Three Judge Panel in the *Plata/Coleman* class action lawsuit ordered CDCR in consultation with the Receiver's office to "finalize and implement an expanded parole process for medically incapacitated inmates." The procedures for the new Expanded Medical Parole process will apply to medical parole hearings conducted on or after July 1, 2014. Significant features of the program are as follows:

## **Eligibility for Expanded Medical Parole**

- The inmate suffers from a significant and permanent condition, disease, or syndrome, resulting in the inmate being physically or cognitively debilitated or incapacitated.
- The inmate qualifies for placement in a licensed health care facility, as determined by the Resource Utilization Guide IV (RUG IV) Assessment Tool.<sup>1</sup>
- The inmate will not pose an unreasonable risk to public safety if placed in a licensed health care facility.
- The inmate is not condemned or serving a sentence of life without the possibility of parole.

## **Pre-Hearing Procedures**

- Medical personnel, the inmate, or the inmate's family or attorney may request that the inmate's CDCR primary care physician consider the inmate for expanded medical parole.
- The inmate's CDCR primary care physician will complete the Medical Parole Form (CDCR Form 7478) along with a RUG IV assessment.
- The forms will be reviewed by the chief medical executive at the facility where the inmate is housed. If approved by the chief medical executive, the forms will be submitted to the classification and parole representative at the institution where the inmate is housed for review. If approved by the classification and parole representative, the forms will be forwarded to the Division of Adult Institutions headquarters, which will prepare a packet for referral to the Board of Parole Hearings.

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Begin Footnote 1: The RUG IV is a tool used to evaluate eligibility for Medicare and Medicaid reimbursement for placement in a skilled nursing facility. End footnote.

### **Hearing Procedures**

- Hearings will be conducted by two or three person panels using the same structure as parole suitability hearings.
- A panel's approval of an inmate's placement in a licensed health care facility will be conditioned upon CDCR identifying a licensed health care facility that meets specified requirements identified by the panel. The panel will specify those facility requirements deemed necessary for the inmate's placement to not pose an unreasonable risk to public safety. Facility requirements will address issues such as applicable statutory residency restrictions, facility security, limitations on visitation and contact with persons under the age of 18, and any other special care provisions rationally related to the inmate's prior misconduct.
- In addition to the above, the panel may condition the inmate's placement on the inmate's compliance with a variety of other requirements and restrictions, such as periodic medical evaluations, compliance with the skilled nursing facility's rules, alcohol and drug restrictions, electronic monitoring, and restrictions on communication with specified persons.
- All other existing Board of Parole Hearings' medical parole hearing procedures not impacted by the provisions outlined herein will be applied to expanded medical parole hearings, including appointment of counsel, and all applicable hearing notifications, including notice to law enforcement, prosecutors, and 90-day notice to registered victims and victims' next-of-kin.

### **Post-Hearing Procedures**

- The board's proposed decision to approve placement of an inmate in a licensed health care facility will be valid for 120 days, during which time CDCR will work to identify a licensed health care facility that meets the requirements specified by the board and secure a bed for the inmate. If an available and appropriate facility is identified that meets the specified requirements, the inmate will be processed for transfer. If no such facility can be identified within 120 days, the board's proposed decision will be invalid and the inmate will remain in a CDCR institution.
- All existing statutory notification requirements governing release of inmates will apply to medical parole placements, including notification to law enforcement, prosecutors, victims, and victim's next-of-kin.

### **Return from Placement in a Licensed Health Care Facility**

- CDCR will monitor the inmate's medical condition and behavior while he or she is placed in a licensed health care facility. Significant improvements in the inmate's medical condition will be reported to the board. The board will determine if the inmate no longer qualifies for medical parole. In addition, material violations of law, facility requirements, or inmate restrictions shall be reported to the board. The board will determine if additional facility requirements and restrictions are warranted.

**Miscellaneous**

- Inmates qualifying for medical parole as defined in Penal Code section 3550 et seq., or expanded medical parole, or both will be processed under expanded medical parole effective July 1, 2014.