



Ohio Administrative Code Rule 5120:1-1-40 Medical release.

Effective: [March 22, 2021](#)

(A) As used in this rule:

(1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time. "Within a short period of time" means generally within six months.

(2) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably. "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect.

(3) "Terminal illness" means a condition that satisfies all of the following criteria:

(a) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover;

(b) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months;

(c) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend.

(B) No inmate is eligible for release under this section if the inmate is serving a death sentence, a sentence of life without parole, a sentence under Chapter 2971. of the Revised Code for a felony of the first or second degree, a sentence for aggravated murder or murder, or a mandatory prison term



for an offense of violence or any specification described in Chapter 2941. of the Revised Code

(C) Whenever it comes to the attention of an attending physician that an inmate may be in imminent danger of death because of a medical condition, medically incapacitated or terminally ill, that physician shall provide to the head of the institution a certificate indicating that the inmate is in imminent danger of death, medically incapacitated or terminally ill, and a separate statement generally describing the inmate's medical condition.

(D) Upon receipt of the certificate and statement from the attending physician, the managing officer of the institution shall cause an institutional summary report to be completed.

(E) Upon receipt of the background report, the managing officer of the institution shall determine whether to recommend release as if on parole.

(1) Whenever such decision is to recommend release as if on parole, the managing officer of the institution shall place the recommendation in a signed and dated written statement to the governor and immediately forward it to the director's office, together with the attending physician's certificate and statement and the institutional summary report.

(2) If the inmate involved has had a first statutory hearing by the parole board at the time the managing officer makes a decision to recommend release as if on parole, the managing officer shall also forward the recommendation and information about the severity of the inmate's condition to the parole board chair.

(F) Upon receipt of the head of the managing officer's statement, the background report, and the attending physician's certificate and statement, the director's office may request that the superintendent of the adult parole authority or institution medical staff conduct an investigation to determine whether there is appropriate community placement for the inmate and whether there is any other additional information that may assist the governor in deciding whether to grant release as if on parole to the inmate. If requested, a written report detailing the results of the investigation shall be submitted to the director's office within ten business days .

(G) The director's office shall forward the assembled documents, always including the head of the



institution's recommendation and attending physician's certificate, to the governor.

(H) If the governor orders release as if on parole, upon receipt of the order by the institution where the inmate is confined, the inmate may be released as if on parole. Terms and conditions of such release shall be made a part of the inmate's file.

(I) When the parole board chair receives a recommendation to release as if on parole from a managing officer, the parole board chair shall review the material submitted by the head of the institution and cause the matter to be considered by the parole board.

(1) The decision whether or not to rehear the matter prior to the next scheduled hearing date rests within the sound discretion of the parole board.

(2) If after a hearing in accordance with rule 5120:1-1-11 of the Administrative Code, the parole board elects to release the inmate, a release shall be effective as soon as placement can be arranged and approved.