

OVERVIEW: Compassionate release laws allow for the release of individuals who are imprisoned and have **terminal or disabling medical conditions**. Compassionate release helps provide individuals with more health support and access to loved ones while also decreasing the large burden of medical care on prison staff. The Federal First Step Act in 2018 expanded the use of compassionate release and allowed for prisoners to file a motion for compassionate release for themselves. Nearly every state has followed suit with specific laws and criteria.

**OTHER TERMINOLOGY FOR
COMPASSIONATE RELEASE:**

Medical Parole
Medical Release
Medical Reprieve
Medical Clemency

GENERAL QUALIFYING CONDITIONS:

Terminal illness - limited prognosis, generally less than 18 months

Significant disability - unable to perform activities of daily living

IMPLEMENTATION ISSUES: Despite laws such as the First Step Act, around 80% of requests are denied, with some states denying more than 95% of requests. Oftentimes, lawyers do not know the nuances of medical conditions or average prognosis. Similarly, parole boards and judges often lack the medical knowledge to determine whether an individual truly qualifies.

HOW PHYSICIANS CAN HELP: Physicians can help explain the medical condition of those who are incarcerated in plain language. Reviewing medical records and writing a brief and objective summary of the patient's condition brings credibility and medical expertise to the process, significantly improving the chances that judges and parole boards recognize that someone qualifies for compassionate release.

GET STARTED: medicaljusticealliance.org/clinicians

MORE INFO ABOUT SPECIFIC STATE COMPASSIONATE RELEASE LAWS:

famm.org/wp-content/uploads/Exec-Summary-Report.pdf

When writing compassionate release documents, keep these suggestions in mind:

USE LAYPERSON LANGUAGE: Explain conditions like you would to a patient. Judges and parole boards are generally not medically trained.

FOCUS ON QUALIFYING CONDITIONS: Look up the specific state or federal law the lawyer is using and match the terminology if appropriate. For instance, California uses the term “permanently medically incapacitated”. Outlining the case using the same terms helps avoid confusion among laypeople (e.g. people may not grasp that End Stage Renal Disease is a permanent condition unless specifically outlined).

Terminal illness - incurable condition that shortens their life and lead to death

Examples: metastatic cancer, end-stage COPD, Alzheimer’s

Significant disability - physical/mental condition impairing activities of daily living

Examples: advanced Parkinson’s, glaucoma, wheelchair confinement

List of state laws: famm.org/our-work/compassionate-release/everywhere-and-nowhere

USE RELATABLE IMAGERY: “9cm x 8cm liver mass” carries much less weight to the average person than “a grapefruit-sized mass in the liver”. Similarly, consider describing rather than just listing a disability. For instance, “the patient’s nerve damage means they can no longer hold a fork and must lower their face to the plate to eat.”

QUOTE THE MEDICAL RECORDS: Medical records are viewed as objective and carry weight when medical staff at the facility corroborate the report. Noting hospitalizations, falls, and the like can help to reinforce cases.

ASK THE PATIENT: Medical records are often incomplete. If possible, have the lawyer arrange a call so you can ask the patient about their function and symptoms. Have them walk you through their day (e.g. when you wake up in the morning, can you put on your socks?)

PHONE A FRIEND: MJA provides writing guides, example letters, and pairs volunteers with experienced mentors who can review drafts and provide feedback.

When asking a patient about disability or memory, patients may be accustomed to their condition and not be able to immediately recall difficulties. Asking specific questions or having them walk you through a day start to finish can reveal issues they face.

MOBILITY:

When you get up in the morning, how do you get out of bed? How long does it take you?
Do you use any assistance such as canes to walk? How far can you walk at once? How fast could you walk to the other side of your unit?
Do you feel steady when standing? How often do you stumble or fall?

EATING:

Walk me through mealtime. Are you able to walk to the cafeteria? Can you carry your tray?
Can you hold a fork/spoon? How long does it take you to eat a meal? Are there things you can't eat?
How often will you choke or cough while eating? Do you find yourself spilling food?

DRESSING:

Walk me through how you get dressed in the morning. Are you able to put on your socks? Pants?
How long does it take you to get dressed?
Could you put on a button-up shirt?

TOILETING/HYGIENE:

Are you able to get up and down from the toilet without help?
Do you wear disposable underwear? How often do you have accidents?
Are you able to take showers? Are you able to stand while showering? How long does it take?
Are you able to brush and floss your teeth? Trim your nails? Shave? Clean your cell?

MEMORY/ACTIVITY:

What medical problems do you have? What medicines do you take?
What do you do during the day? Ask specifics - what is the name of a TV show you watch?
What are the names of people you see in your unit? What is your lawyer's name?
Are you able to read? Use the phone? Use the computer?
How often do you misplace things?