

Hawaii

Overall Grade for Hawaii

Total Grade

47 /100

Letter Grade

F

Program Grades

	Total Grade	Letter Grade
Medical Release	47/100	F



Medical Release

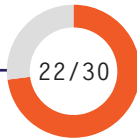
Total Grade

47 /100

Letter Grade

F

Eligibility Criteria



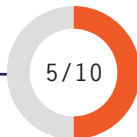
5/10 Clearly set out with understandable and measurable standards.

7/10 Generous or not unduly restrictive.

10/10 No categorical exclusions/everyone is eligible for consideration.

× **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

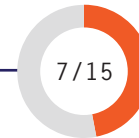


5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

0/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

× **Extra credit:** Expedited time frames exist for terminal cases. **0**

Engaging the Process

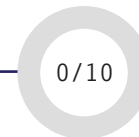


5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

2/5 Incarcerated people, their loved ones, and advocates can initiate the process.

0/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

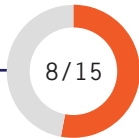


0/5 Agencies provide comprehensive release planning.

× **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **0**

0/5 Release planning begins early in the process.

Agency Policy Design



3/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

2/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

3/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting



0/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 Reporting is made available to the public via annual reports or other means.

5/10

Right to Counsel and Appeals

5/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. **0**

0/5 UTD* Individuals have the right to reapply should conditions change.

✘ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. **0**

* UTD stands for "Unable to Determine" and is graded zero. This is when there are no rules, guidelines, regulations, or other authority that FAMM could find addressing the graded category. For example, if there are no published provisions for release planning or telling an agency how it is to evaluate an incarcerated person's eligibility, that results in a zero UTD grade.

The Numbers

The Paroling Authority is not obliged to, nor does it, report how many people receive or are denied Medical Release. Hawaii did not respond to FAMM's public records request for the information for 2019 and 2020.

High and Low Marks

HIGH MARKS

- Hawaii's Medical Release received mixed **eligibility criteria** marks. On the strong side, the program confers eligibility on an incarcerated individual who has a persistent or progressive illness that "impedes" the individual's mental or physical capacities and quality of life. People may secure Medical Release if they suffer from an irreversible mental or physical condition that impairs their functioning and for which better care can be provided in the community. FAMM considers those generous, if rather vague, standards. We were especially impressed by the inclusion of those too ill or cognitively impaired to participate in rehabilitation or be aware they are being punished. Few state compassionate release programs address cognitive impairments in such a direct fashion. Finally, any incarcerated person who meets eligibility standards may be considered; there are no categorical exclusions barring people due to their conviction or sentence.
- Department of Public Safety Corrections Division **procedures** are well laid out and do not appear to include extra steps or redundant reviews.
- Incarcerated people may have **counsel** represent them before the Hawaii Paroling Authority, which is the agency responsible for the Medical Release decision.

LOW MARKS

- Grades for **agency policy design** were poor. While the Corrections Division has clear and straightforward rules guiding the initiation, assessment, and referral steps for Medical Release, FAMM could find no guidance for the Paroling Authority considering Medical Release referrals. Consequently, we awarded only partial grades for agency policies. The grade in this category also suffered because the Paroling Authority and the Corrections Division define terminal condition differently. The Paroling Authority requires that death be “imminent,” (without defining “imminent”), while the Corrections Division merely requires a “predictably poor prognosis” (also undefined).
- The program flunked **release planning support**. Generic Paroling Authority rules require the incarcerated person provide a release plan that describes the life the individual will lead, how the person will be employed, and how the person will meet personal needs. Because the Paroling Authority does not have Medical Release rules, FAMM concluded that the generic rules govern in all cases. Expecting a person who is dying or debilitated to come up with a release plan, much less a job, is an unrealistic and unsound policy.