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correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

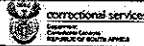
ADMINISTRATION OF MEDICAL PAROLE

PRESENTATION TO THE PORTFOLIO COMMITTEE ON
CORRECTIONAL SERVICES

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SUMMARY

Focus on the contents of the Medical Parole Policy and a schematic process flow of the procedures.

Content includes definition of terms, background, policy mandates, statements, objectives, principles, implementation, monitoring, evaluation and review as well as the financial implications.

BACKGROUND

- Inmates have a right to adequate health care services.
- The Department provides primary health care services and refer patients to external health care facilities for secondary and tertiary levels of health care.
- A number of offenders and remand detainees suffer from various illnesses with poor prognosis which are progressive and non-reversible.
- Some offenders suffer from medical conditions which are related to aging and are progressive in nature.
- Only a small number of these offenders were considered for placement on medical grounds and released before they could die whilst others passed away in custody.
- Seriously ill inmates can be categorized into those with:
 - a terminal illness with poor prognosis;
 - Alzheimer's and related dementia; and
 - a serious, progressive and non-reversible illness
- On referral to external health facilities inmates are discharged with recommendations that palliative care must be provided.

BACKGROUND (cont')

- Patients with terminal illnesses are provided with palliative care.
- Department has limited capacity to provide palliative care.
- Continued incarceration of terminally ill inmates has a huge impact on limited resources
- Challenges were experienced in the implementation of placement on medical grounds and these include:
 - inconsistent understanding and implementation of the procedures;
 - laborious approval processes;
 - reluctance by some families to take care of their respective terminally ill offenders
 - reluctance by hospice organizations to admit released offenders without any guarantee of payments;
 - at times medical practitioners were expected to indicate life expectancy and the possibility of recommitting a crime when recommending placement.
- There were instances where requests for placement on medical parole were not submitted on time, eligible offenders would die before their applications could be completed. At other times if submitted on time, released terminally ill offenders could live longer and this raised concerns within the public.

BACKGROUND (cont')

CORRECTIONAL SERVICES ACT 1998,(Act No.111 of 1998)

- In terms of Section 79 of the above Act, consideration for parole on medical grounds would only be considered by the Commissioner, Correctional Supervision and Parole Board or the Court,
- The Act was silent on the disclosure of the offender's medical condition and this could have violated the offender's right to confidentiality.
- The Act did not make provision for medical parole of terminally ill remand detainees. Medical reports would be submitted with recommendations to the courts to consider withdrawing the cases or granting of bail.

Based on the experienced challenges and above issues, a need was therefore identified to review legislation and develop new policy and procedures.

PROVISION OF THE CORRECTIONAL MATTERS AMENDMENT ACT (Act No.5 of 2011)

- The Act was approved and published in the Government Gazette on 25 May 2011.
- Section 79 (1) (a) of this Act makes provision that any sentenced offender may be considered for release on medical parole if such offender is suffering from a terminal illness or condition or if such offender is rendered physically incapacitated as a result of an injury, disease or illness so as to severely limit daily activity or inmates self care.
- The initiation of the application process is no more limited to the medical practitioner but the offender or any person acting on behalf of the offender can apply.
- Medical Practitioner treating the offender completes the form and forward to Medical Parole Advisory Board together with all specialist and medical investigation reports.
- The provision for informed consent by the offender has been included.
- The Act also makes provision for the management of terminally ill remand detainees.
- Section 79(3) of the Act makes provision for the Minister to establish a Medical Parole Advisory Board (MPAB).
- Medical Parole Advisory Board was launched on the 23 February 2012.

POLICY MANDATES

The policy and its procedures were developed in terms of the following mandates:

- **Correctional Services Act, (Act No 111 of 1998) – Section 12:** provision of health care services and section 79 : Correctional supervision and medical grounds;
- **Correctional Matters Amendment Act, (Act No 5 of 2011) – Section 14:** medical parole and establishment of the Medical Parole Advisory Board.
- **Amendment of the Correctional Services Regulations, 2004:** Management of medical parole and establishment of the Medical Parole Advisory Board.

STATUS ON THE MEDICAL PAROLE ADVISORY BOARD MEMBERS

PROVINCE	NUMBER APPOINTED
Eastern Cape	1
Free State	2
Gauteng	5
KwaZulu/Natal	2
Limpopo	0
Mpumalanga	0
Northern Cape	0
North West	0
Western Cape	1
TOTAL	11

POLICY STATEMENT

Inconsistent interpretation and implementation of procedures on the placement on medical grounds which varied from one Region to the other, resulted in some of the offenders succumbing to their health conditions before the release processes could be finalized.

The Medical Parole Policy is intended at facilitating the identification of offenders and remand detainees who place a huge resource burden on the department to be considered for release on medical parole based on their health conditions before completion of their sentences. This policy also intends to extend the legal capacity to initiate the medical parole application process.

POLICY OBJECTIVES

The Medical Parole Policy will be guided by the following objectives:

- To provide guidelines on the management of the offenders and remand detainees who are eligible for medical parole based on clinical (medical) evidence;
- To standardize procedures and processes for the implementation of medical parole in all correctional centers;
- To reduce the number of inevitable deaths of terminally ill offenders and remand detainees inside the correctional centers;

POLICY PRINCIPLES

The policy will be based on the following principles :

- All staff, offenders, remand detainees and stakeholders shall be provided with information on the medical parole process.
- Any eligible offender shall be considered for release on medical parole.
- Medical parole shall only be considered after the completion of the prescribed areas in the approved medical parole application form and the addendum.
- All medical parole applications shall be subject to review by the Medical Parole Advisory Board (MPAB).
- A discharge plan shall be developed and implemented for each terminally ill offender who is identified as eligible for medical parole to ensure continuity of care.
- All terminally ill offenders shall be properly transported, accompanied and handed over to the family / next of kin / admitting institution on release.
- The Head of a Remand Detention facility or Correctional Centre shall refer a terminally ill or severely incapacitated remand detainee to the court for a decision.

POLICY IMPLEMENTATION

- The Accounting Officer, through delegated authority, shall ensure and take responsibility for the overall implementation of this policy and its procedures.
- Regional Commissioners and Area Commissioners shall be responsible for distribution of this policy to all internal and external relevant stakeholders at their levels.
- Regional Commissioners and Area Commissioners shall be responsible for the coordination, implementation and monitoring of this policy in their Management Areas to ensure:
 - Capacity and resources for the implementation of the policy;
 - Establishment of supporting structures; and
 - Compliance with objectives and principles of the policy;

POLICY MONITORING

The policy will be monitored as follows:

- National Head Office has developed mechanisms to monitor implementation and compliance with the policy and procedures at operational level, as contained in the Medical Parole Policy and Procedures;
- Incarceration and Corrections, Regional Commissioners and Area Commissioners shall be responsible for monitoring compliance with the policy;
- Through the analysis of regional monitoring reports, inspections and audit reports as well as observations during support visits;

Information on medical parole shall be submitted through the prescribed communication channels to Head Office.

POLICY EVALUATION

This policy shall be evaluated annually to assess its efficiency and effectiveness.

- Evaluation of the effectiveness of the policy shall be done through the analysis of regional reports, inspection and audit reports generated during policy monitoring processes and/or whenever there are changes to the applicable legislation;
- Policy evaluation will focus on:
 - > Strengthening existing health services;
 - > Expanding the services to cover all offenders and remand detainees; and
 - > The impact of the service on the health of offenders, and its efficiency, effectiveness and relevance.

POLICY REVIEW

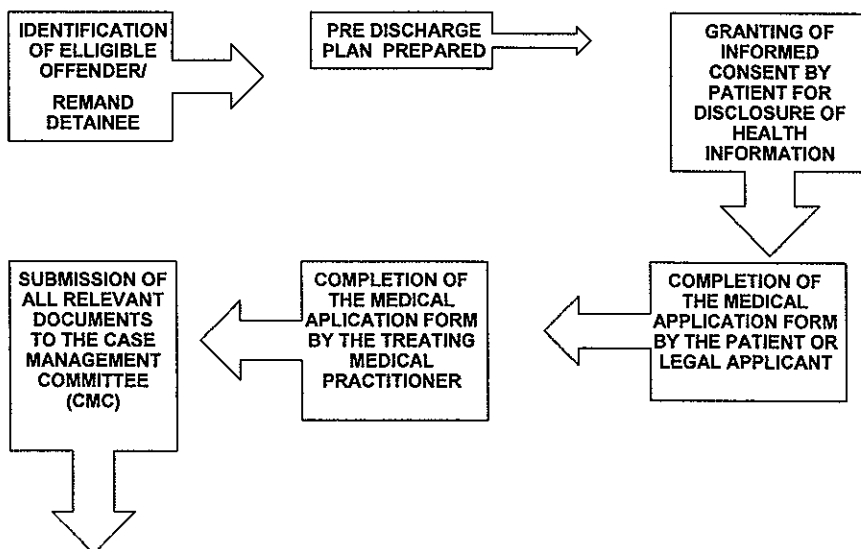
This policy shall be reviewed regularly to determine the extent of its application, to identify gaps, to assess the impact and to ensure compliance with other policy frameworks including domestic legislation and international law, and other human rights provisions.

FINANCIAL IMPLICATIONS

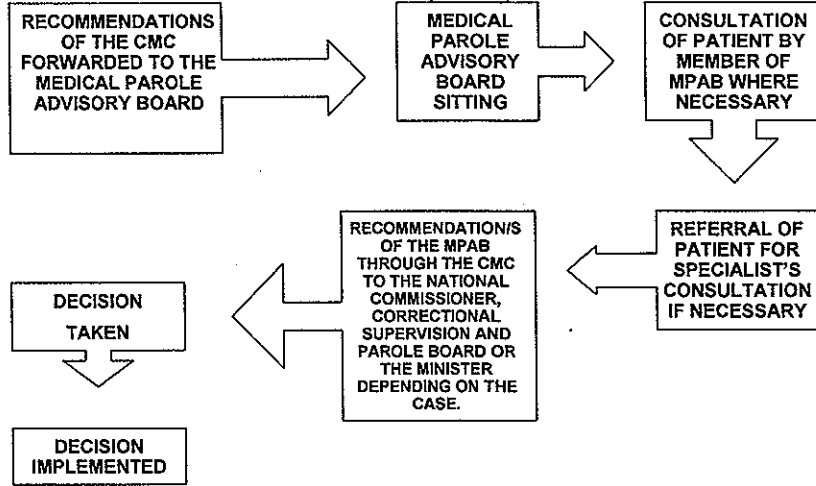
The financial implications of this policy will arise out of :

- the need for human resources, capacity development, equipment and facilities in order to implement, monitor and evaluate the policy.
- Establishment and operations of the Medical Parole Advisory Board.

PROCEDURES PROCESS FLOW



PROCEDURES PROCESS FLOW (Cont')



PROGRESS MADE SINCE INCEPTION OF THE MPAB

Since the inception of the MPAB, a fully constituted meeting was convened in Pretoria on the 20th June 2012, twelve (12) applications were reviewed to make recommendations.

The outcomes of that meeting were as follows:

- Three (3) died whilst the documentation were still being processed,
- Three (3) were not recommended for medical parole,
- Six (6) were recommended for medical parole pending examination by a member of the MPAB,
- After examination by a member of the MPAB, four (4) recommendations were re-confirmed and two (2) were not recommended to be released on medical parole.
- The four applicants have finally been released on medical parole. (Respectively on 9th, 12th, 20th & 21th July 2012)

PROGRESS MADE SINCE INCEPTION OF THE MPAB

The second MPAB meeting was convened in Pretoria on the 25th July 2012 wherein thirty four (34) applications were reviewed and decisions were as follows:

Recommended	For further review	Recommended pending examination by a member of the MPAB	Not recommended	Deceased whilst process was still underway
2	Next month 4 In 6 months 8 12	4	13	03
TOTAL				34

CONCLUSION

The new policy and procedures on medical parole will address the past challenges regarding this matter and ensure common understanding, transparency and standardized implementation.

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