



# MACDL

Massachusetts Association of  
Criminal Defense Lawyers

RE: Critique of 501 CMR 17 – Medical Parole

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My name is attorney Austin Tzeng, and I am writing in my capacity as legislative co-chair of the Massachusetts Association of Criminal Defense Lawyers (“MACDL”). MACDL is a statewide organization of lawyers committed to the promotion of justice for the defense bar and persons accused and convicted of crimes.

I write specifically to object to certain proposals in 501 CMR 17, which governs eligibility for medical parole for terminally ill and/or permanently debilitated persons. While MACDL is a proponent of laws that permit compassionate release for medically-qualified persons, 501 CMR 17 in its current form is too restrictive in its categorization of eligible persons, and unnecessarily burdensome upon inmates petitioning for compassionate release.

In its current form, these regulations limit the class of eligible persons only to persons who are going into a nursing home specifically. Many otherwise-eligible inmates who would qualify as either terminally ill or permanently debilitated, including those confined to a wheelchair, walker, or homebound, and who could receive treatment with hospice care, or other medical support, are categorically denied from relief under this regulation. MACDL takes the position that all such persons who meet a commonsense definition of terminally ill and/or permanently debilitated should be eligible for relief.

MACDL also opposes the requirement petitioners submit a comprehensive medical parole plan within 21 days of the application, which includes a notarized diagnosis, financial planning, a defined location, and commitments from specific doctors agreeing to continued care for three months. Furthermore, the regulations do not allow an inmate to apply for re-petition unless there is a change in health circumstances. Imposition of these arbitrary requirements should be eliminated.

For all state prison inmates, let alone those who are terminally ill or permanently debilitated, communication with persons outside the jail is exceedingly difficult. The ability to make telephone calls, send e-mails, or accomplish tasks with medical providers is either impossible or severely restricted. Moreover, many inmates unfortunately do not have loved ones who are willing/able handle these affairs for them. These arbitrary restrictions should be eliminated altogether, especially for those who would otherwise qualify for compassionate release.

Finally, petitioners and their loved ones should be given an opportunity to be present for their own parole hearings, and also to review the Superintendent's recommendation before it is submitted to the Commissioner to ensure accuracy of the record, and to promote transparency and fairness in this process. Thank you for your attention to this matter. Feel free to contact me anytime.

*/s/ Austin C. Tzeng, Esq.*, MACDL Legislative co-chair, tzendefense@gmail.com