

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency _____

Department _____

Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204) Legal Notice Published _____

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment _____

☐ Other _____ Reviewed by Legislative Council _____
(Must be more than 10 days after filing date.)

Adopted by State Agency _____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

Phone Number

E-mail Address

Title

Date

	ADMINISTRATIVE RULE STATE OF ARKANSAS BOARD OF CORRECTIONS	Section Number: ADC 850 AR 7.19	Page Number: 1
		Board Approval Date: 08/02/2013	
		Supersedes: DOC 850 DCC 7.19	Dated: 09/20/95
		Reference:	Effective Date: 09/13/2013
SUBJECT: TERMINAL ILLNESS OR PERMANENTLY INCAPACITATED			

I. AUTHORITY

The Board of Corrections is vested with the authority to promulgate administrative rules by Ark. Code Ann. §§ 12-27-105, 16-93-1203, and 16-93-1205.

II. APPLICABILITY

This policy applies to medical staff, consulting physicians, members of the public, and to administrative staff of the Arkansas Department of Correction (ADC) and Department of Community Correction (DCC) and to inmates/residents identified by a physician as terminally ill or permanently incapacitated.

III. POLICY

The medical service provider, ADC, and DCC must establish a process to identify and bring to the attention of the Parole Board for transfer to community supervision terminally ill and permanently incapacitated inmates/residents who meet criteria in this policy.


IV. DEFINITIONS

A. Permanent Incapacitation

A medical condition that is not necessarily terminal but renders an offender permanently and irreversibly incapacitated and requires immediate and long-term care, in the opinion of two licensed physicians pursuant to law.

B. Terminal Illness

An incurable condition that will likely result in death within 2 years due to illness or disease, in the opinion of two licensed physicians.

	ADMINISTRATIVE RULE STATE OF ARKANSAS BOARD OF CORRECTIONS	Section Number: ADC 850 AR 7.19	Page Number: 2
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V. ELIGIBILITY CRITERIA FOR EARLY MEDICAL RELEASE

Individuals sentenced to the Arkansas Department of Correction (ADC) or DCC may be eligible for early release to community supervision pursuant to Ark. Code Ann. §12-29-404 et. seq., with approval of the Parole Board when two licensed physicians agree the individual meets the definition of permanently incapacitated and/or terminally ill with exception of the following:

- A.** Under sentence of death, or
- B.** Sentenced to life imprisonment without parole eligibility, or
- C.** Sentenced to life imprisonment (sentence not commuted to a term of years by executive clemency pursuant to Ark. Code Ann. §16-93-601 et. seq.), or
- D.** Assessed as a Level 3 or higher sex offender, or
- E.** Required to register as a sex offender and his/her victim of one or more sex offenses was fourteen years of age or younger.

VI. PROCEDURE

- A.** Each Director shall provide procedures to be followed within their agency to bring individuals within their custody to the attention of the Board of Parole upon recognition that an offender is terminally ill or permanently incapacitated.
- B.** Staff from the agency having custody of the individual, including medical and mental health staff, will provide any assistance requested by the Parole Board/court in generating a release plan that appropriately addresses the medical/mental health needs of the inmate/resident.

VI. REFERENCES

Ark. Code Ann. §12-29-404 §12-12-901, §5-4-607, and §16-93-601 et. seq..