



**TEXAS BOARD
OF
PARDONS AND PAROLES**

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Dated December 1, 2008

BOARD DIRECTIVE

SUBJECT: REPRIEVES - FAMILY AND EMERGENCY MEDICAL

PURPOSE: To provide guidance for the Board of Pardons and Paroles (Board) and staff to process a reprieve application where the family member or offender has six months or less to live.

AUTHORITY: Texas Constitution, Article IV, Section 11
Texas Code of Criminal Procedure, Article 48.05
Texas Government Code, Section 508.115
Texas Administrative Code, Title 37, Part 5, Chapter 143, Sections 143.31 – 143.32, 143.34

DISCUSSION: The Texas Constitution authorizes the Governor to grant clemency upon the recommendation and advice of a majority of the Board. A family member who is critically ill or an offender who is terminally ill or totally disabled may request clemency from the Governor.

If the Governor grants the offender a reprieve for family emergency, the reprieve is for a period specified by the Governor. The offender will be released from custody in order to visit the critically ill family member and must return to custody at the designated date, time and location.

If the Governor grants the offender a reprieve for medical emergency, the reprieve is indefinite. The offender will be released from custody to the care of family or to a medical facility that can provide specific care not available within the Texas Department of Criminal Justice (TDCJ)-Correctional Institutions Division (CID) system.

DEFINITIONS: Critically Ill – A medical condition in which death is possible or imminent.

Terminally Ill – A medical condition that is incurable and will inevitably result in death within six months regardless of life sustaining treatment.

Totally Disabled – A severe, chronic disability that is likely to continue indefinitely and results in substantial functional limitations.

PROCEDURES:

The Board's Clemency Section (BCS) BCS receives applications or requests for Reprieve for Family Emergency (FMR) or Emergency Medical Reprieve (EMR).

- I.** Application – Upon receipt of an application from an offender, offender's attorney or a person acting on an offender's behalf, the BCS staff will create a clemency file.
 - A. For a medical emergency reprieve, the BCS staff will immediately contact the unit attending physician to verify the health status of the offender. For an offender who is requesting a reprieve due to a terminal illness, the BCS staff will request the unit attending physician or designated unit medical staff to notify the BCS if the offender's health status changes.
 - B. For a family medical emergency reprieve, the BCS staff will immediately contact the family member who submitted the application to verify the health status of the terminally ill family member. The BCS staff will request the contact person to notify the BCS if the ill family member's health status changes.
 - C. Monitoring Health Status – The BCS staff will continually monitor the offender's and family member's health status throughout this process to ensure the Board Members and the Governor are notified when the offender or family member is deceased.
 - D. Notices – The BCS staff will send letters to the trial officials and victims notifying them that the offender submitted an application requesting a reprieve and soliciting their input.
- II.** Notebooks – Upon receipt of all the appropriate documents, the BCS staff will prepare a clemency notebook for each Board Member and deliver them by overnight courier.
 - A. For a medical emergency reprieve, the notebook must contain a medical summary from the TDCJ-CID unit attending physician.
 - B. For a family emergency reprieve, the notebook must contain the Physician's Medical Summary indicating a "life expectancy" of six months or less to live in the "Prognosis" header.
- III.** Board Members' Vote – The Board Members shall vote the case the same day the notebook is received. If a Board Member is on leave and out of the country, the member shall not be required to vote.
 - A. The Board Members shall submit their votes by facsimile or hand delivery to the BCS. Upon a vote to recommend a reprieve, the BCS staff shall prepare the

Governor's notebook with the Board's recommendation. Prior to delivering the notebook to the Governor, the BCS staff will verify the health status of the offender or family member depending on the type of reprieve requested.

- B. The BCS staff shall notify the requester or offender, trial officials who submitted a response to the notice, and TDCJ Victim Services of the Board's final vote. If the vote is to recommend clemency, the BCS staff shall notify all trial officials as required by Government Code Section 508.115.
- IV.** Each Board Member shall return their clemency notebook to the BCS after they are notified of the Board's final decision.

SIGNED THIS, THE 15TH DAY OF SEPTEMBER, 2009.

RISSIE OWENS, PRESIDING OFFICER (CHAIR)

** Signature on file.*