

Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2022-055.

Submit written comments by July 1, 2022, to:
 Geraldine Callahan
 Department of Community Affairs
 PO Box 800
 Trenton, New Jersey 08625
 Fax No. (609) 984-6696
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The agency proposal follows:

Summary

The Department of Community Affairs (Department) seeks to amend Subchapter 3, Subcodes, of the Uniform Construction Code (UCC), specifically the Energy Subcode, N.J.A.C. 5:23-3.18, to incorporate the requirements at P.L. 2021, c. 290 (law). The law requires any newly constructed warehouses for which a construction permit has not been declared complete by the enforcing agency before July 1, 2022, to be a solar-ready building. Within the law, “warehouse” is defined as any building, room, structure, or facility of at least 100,000 square feet used primarily for the storage of goods intended for sale.

The law directs the Department to incorporate the provisions of the 2018 International Energy Conservation Code (IECC), Appendix CA, or any successor model code, concerning solar-ready zones for warehouses. The 2018 IECC is the current and active version of the IECC, and it is, thus, what the Department currently adopts. As such, the Department is proposing to amend N.J.A.C. 5:23-3.18(b)7 accordingly; this proposed amendment adopts Appendix CA of the 2018/IECC for warehouses meeting the definition established pursuant to P.L. 2021, c. 290.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

It is expected that the proposed amendment will have a positive social impact. This rulemaking codifies the requirements established pursuant to P.L. 2021, c. 290, and delineates the requirements for constructing solar-ready warehouses throughout the State. Ensuring warehouses are solar-ready benefits the residents of New Jersey by facilitating solar development and promoting clean energy throughout the State.

Economic Impact

The proposed amendment is not expected to have a direct economic impact. New warehouses will face an increased cost of construction to incorporate the solar-ready provisions, but it is anticipated that the energy savings will neutralize the initial increase in cost over time. In addition, this rulemaking will reduce costs for subsequent solar installations on solar-ready warehouses, and those installations will result in further energy savings.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendment is not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or any State statute that incorporates or refers to any Federal law, standards, or requirements.

Jobs Impact

The proposed amendment is not expected to have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendment would impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendment, which incorporates the requirements at P.L. 2021, c. 290, requires newly constructed warehouses to be solar-ready. Some developers of these warehouses may be considered small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, because this is a Statewide requirement that provides for the use of solar energy, it is not anticipated

to pose an undue burden on small businesses. In addition, it is not anticipated that small businesses would be required to undertake additional recordkeeping, reporting, or other services in compliance with this proposed amendment. As such, no regulatory flexibility analysis is required.

Housing Affordability Impact Analysis

It is not expected that the proposed amendment will have any impact on the affordability of housing or on the average costs of housing in the State because the rulemaking concerns the construction of solar-ready warehouses.

Smart Growth Development Impact Analysis

It is not expected that the proposed amendment will have any impact on housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because the rulemaking concerns the construction of solar-ready warehouses.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State.

Full text of the proposal follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 3. SUBCODES

5:23-3.18 Energy [Subcode] **subcode**

(a) (No change.)

(b) The following chapters and sections of the commercial provisions of the energy subcode are amended as follows:

1.-6. (No change.)

7. Appendix CA, Solar-Ready Zone—Commercial, is [deleted] **adopted for the construction of a warehouse for which a construction permit has not been declared complete by the enforcing agency before July 1, 2022, pursuant to P.L. 2021, c. 290. A warehouse means any building, room, structure, or facility of at least 100,000 square feet used primarily for the storage of goods intended for sale.**

(c) (No change.)

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Proposed Amendments: N.J.A.C. 10A:71-3.2, 3.16, 3.18, 3.20, 3.53 6.4, 6.11, 6.12, 7.9, 7.15, and 7.17

Proposed New Rules: N.J.A.C. 10A:72-16

Authorized By: New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Authority: N.J.S.A. 30:4-123.48.d; and P.L. 2020, c. 106, and P.L. 2021, c. 19.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-054.

Submit comments by July 1, 2022, to:

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The agency proposal follows:

Summary

On October 19, 2020, Governor Murphy signed P.L. 2020, c. 106. The law provides for the establishment of a compassionate release program for inmates diagnosed with a grave medical condition and repeals the law that established medical parole (N.J.S.A. 30:4-123.51.c). The law authorizes a court to release an inmate who qualifies under the law for compassionate release at any time during the term of incarceration and requires the Commissioner of the Department of Corrections (Department) to establish and maintain a process by which an inmate may obtain a medical diagnosis to determine whether the inmate is eligible for compassionate release. An inmate granted compassionate release is subject to the custody, supervision, and conditions as provided at N.J.S.A. 30:4-123.59 and is subject to sanctions for violation of a condition of compassionate release as if on parole, as provided at N.J.S.A. 30:4-123.60 through 30:4-123.65. The legislation was effective February 1, 2021.

Based on the enactment of P.L. 2020, c. 106 and the repeal of the State Parole Board's (Board) authority to grant medical parole, the Board proposes to amend N.J.A.C. 10A:71-3.2 and 3.53.

The proposed amendment at N.J.A.C. 10A:71-3.2 would delete subsection (l). This subsection referenced the authority of a Board panel to release an inmate on medical parole.

The proposed amendments at N.J.A.C. 10A:71-3.53 reflect the deletion of those subsections relating to the authority, now repealed, of the Board to grant medical parole and the inclusion of sections relating to the court having the authority to grant compassionate release. Proposed amendments also include the responsibility of the Board to develop and investigate a community release plan; the obligation of the Board to communicate with the court regarding the community release plan; the establishment of the conditions of compassionate release and the service of the conditions on an offender granted compassionate release; the obligation of the Board to notify the prosecutor if the offender no longer meets the criteria for compassionate release; and the ability of the Board to address violations of the conditions of compassionate release.

On February 22, 2021, Governor Murphy signed P.L. 2021, c. 19. The law changed the legal status of marijuana and hashish. Though marijuana and hashish are still defined as "controlled dangerous substances" pursuant to N.J.S.A. 2C:35-5, the substances are largely decriminalized for non-distribution offenses. The law also amended N.J.S.A. 30:4-123.59 and 30:4-123.60. N.J.S.A. 30:4-123.59.b(1)(a) was amended to include the word "unlawful" before the "use (or the) possession or distribution of a controlled dangerous substance, controlled dangerous analog or imitation controlled dangerous substance as described in N.J.S. 2C:35-2 and N.J.S. 2C:35-11" and included after said language "other than possession of marijuana or hashish in violation of paragraph (3) of subsection a. of N.J.S. 2C:35-10 and distribution of marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S. 2C:35-5." N.J.S.A. 30:4-123.59.b(1)(b) provides that the conditions of parole release may not include any condition that would prohibit or restrict manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12), or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3). As amended, N.J.S.A. 30:4-123.60 provides that the imposition of a special condition for violation of a condition of parole or the revocation of parole shall not be based on manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

Based on the amendments at N.J.S.A. 30:4-123.59 and 30:4-123.60, the Board proposes to amend N.J.A.C. 10A:71-3.16, 3.18, and 3.20 (the sections that relate to Board members, Board panels, and the Board establishing special conditions of supervision); 6.4, 6.11 and 6.12 (the sections that relate to the general conditions of parole, community supervision for life, and parole supervision for life, respectively); and 7.9, 7.15, and 7.17 (the sections that relate to violations of the conditions of supervision and the revocation hearing process) to reflect the statutory amendments.

The State Supreme Court in *J.K. v. New Jersey State Parole Board*, 247 N.J. 120 (2021), determined that the Parole Act of 1979 (Act) granted broad authority to the Board over parole supervision and conferred, on the

Board, the authority to promulgate reasonable rules and regulations as may be necessary for the proper discharge of its responsibilities. The Court determined that the Act's grant of authority to the Board to grant a parolee's request to transfer to another state did not limit the Board's authority to allow the international relocation of a sex offender while retaining supervision over the offender. As the Board has the authority to consider international relocations, the Board proposes new N.J.A.C. 10A:72-16. The new rules represent the codification of procedures for the processing of a request by an offender, under the supervision of the Board, to reside in a country, commonwealth, or territory outside of the United States of America (USA). These new procedures include general provisions; pertinent criteria; delineated time frames; specific procedures for requests; reviews by Board panels; violations; and additional actions, as necessary.

The notice of proposal is not subject to the calendar requirement at N.J.A.C. 1:30-3.3(a) because the Board has provided a 60-day comment period and, therefore, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The enactment of P.L. 2020, c. 106, impacts on the Board. Effective February 1, 2021, the Board no longer had the authority to grant medical parole. Therefore, Board staff are not involved in the processing of inmate cases for medical parole consideration. Board staff will, however, continue to be involved in the development of a community plan in the cases of inmates eligible for compassionate release consideration by the appropriate court and the supervision of inmates granted compassionate release.

Offenders will be affected by the proposed amendments to the sections relating to the establishment of general and special conditions of supervision as the amendments take into account the amendments at N.J.S.A. 30:4-123.59 and 30:4-123.60 that are based on the change in the legal status of marijuana and hashish pursuant to P.L. 2021, c. 19. With the decriminalization of certain conduct related to the use or possession of marijuana and hashish, offenders will not be in violation of their supervision status for conduct that now complies with the provisions at P.L. 2021, c. 19 and, therefore, will not be subject to arrest and detention and the initiation of the revocation hearing process.

Offenders will be affected by the proposed new rules (N.J.A.C. 10A:72-16) related to an offender residing outside of the United States of America (USA). Procedures, including criteria and a written request/application process that must be complied with by an offender requesting to reside outside of the USA, are established. Division of Parole staff will be impacted as requests/applications to reside outside of the USA will need to be processed and reviewed for presentation to a designated Board panel. If an offender is authorized to reside outside of the USA, Division of Parole staff will be required to maintain contact with the offender.

Economic Impact

The Board does not believe the proposed amendments and new rules relating to the deletion of the authority to grant medical parole will have an economic impact on the Board's annual expenditures as the number of cases assessed for medical parole has been minimal. It is anticipated that the cost of the development of a community plan for inmates that qualify for compassionate release and the supervision of inmates granted compassionate release by the appropriate court will be met by the Board through the established budget process with funding presently allocated by the State.

Based on the enactment of P.L. 2021, c. 19, it is possible that the number of offenders returned to the custody of the Department would be decreased. The Department may, therefore, achieve an economic benefit, as the Department would not incur the cost of incarceration associated with the return of an offender to the custody of the Department. The economic impact, however, cannot be readily identified.

Federal Standards Statement

The proposed amendments and new rules are not proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under State statute that incorporates or refers to Federal law, standards, or requirements. An

analysis of the amendments pursuant to P.L. 1995, c. 65 is, therefore, not required.

Jobs Impact

The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. It is not anticipated that any jobs will be lost or created as a result of the proposed amendments and new rules.

Agriculture Industry Impact

The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. The proposed amendments and new rules, therefore, will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments and new rules impose no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. A regulatory flexibility analysis is, therefore, not required.

Housing Affordability Impact Analysis

The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. The proposed amendments and new rules will, therefore, have no impact on the affordability of housing, nor will the changes increase or decrease the average cost of housing in the State.

Smart Growth Development Impact Analysis

The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. The proposed amendments and new rules will, therefore, not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendments and new rules pertain to the repeal of the Board's statutory authority to grant medical parole; the modification of certain supervision conditions; and requests by offenders to reside outside of the United States of America. The proposed amendments and new rules will, therefore, have no impact on pretrial detention, sentencing, or probation policies. However, the proposed amendments that are based on the enactment of P.L. 2020, c. 106, will have an impact on certain inmates confined in State correctional facilities because medical parole has been replaced by a compassionate release process that involves a judicial determination as to whether an inmate diagnosed with a grave medical condition will be released from confinement. The proposed amendments that are based on the enactment of P.L. 2021, c. 19 (change in legal status of marijuana and hashish) and the new rules (requests to reside outside of the United States of America) will impact offenders that are presently in the community under the supervision of the Division of Parole.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 71 PAROLE

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.2 Calculation of parole eligibility terms
(a)-(k) (No change.)

[(l) Pursuant to N.J.S.A. 30:4-123.51(c)1, the appropriate Board panel may release an inmate serving a sentence of imprisonment on medical parole, N.J.A.C. 10A:71-3.53, at any time.]

[(m)] **(l)** (No change in text.)

10A:71-3.16 Board member review; adult inmates

(a)-(b) (No change.)

(c) The Board members certifying parole release shall not impose on any parolee any condition that would prohibit or restrict manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5(b)12, or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a3.

Recodify existing (c)-(e) as **(d)-(f)** (No change in text.)

10A:71-3.18 Board panel hearing; notice of decision for adult inmates

(a) (No change.)

(b) If the Board panel determines to certify parole release pursuant to (a)1 above, the Board panel shall not impose on any parolee any condition that would prohibit or restrict manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5.b12, or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a3.

Recodify existing (b)-(f) as **(c)-(g)** (No change in text.)

10A:71-3.20 Board hearing; notice of decision for adult inmates

(a) (No change.)

(b) If the Board determines to certify parole release, the Board shall not impose on any parolee any condition that would prohibit or restrict manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5.b12, or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a3.

Recodify existing (b)-(e) to **(c)-(f)** (No change in text.)

10A:71-3.53 [Medical parole] **Compassionate release**

[(a) Pursuant to N.J.S.A. 30:4-123.51c, the appropriate Board panel may release on medical parole any inmate, except as provided in (b) below, serving any sentence of imprisonment who has been diagnosed pursuant to (e) below as suffering from a terminal condition, disease, or syndrome or a permanent physical incapacity and is found by the appropriate Board panel to be so debilitated or incapacitated by the terminal condition, disease or syndrome or permanent physical incapacity as to be permanently physically incapable of committing a crime if released on parole and, in the case of a permanent physical incapacity, the conditions under which the inmate would be released would not pose a threat to public safety. Notwithstanding any provision of N.J.S.A. 30:4-123.45 et seq., or this chapter to the contrary, the appropriate Board panel may release on medical parole any such inmate at any time during the term of the sentence.

(b) Pursuant to N.J.S.A. 30:4-123.51c(a)3, no inmate serving any sentence for a violation of N.J.S.A. 2C:11-3 (murder); N.J.S.A. 2C:11-4 (manslaughter); N.J.S.A. 2C:13-1 (kidnapping); N.J.S.A. 2C:14-2(a) (aggravated sexual assault); N.J.S.A. 2C:15-1 (robbery) in which the inmate, while in the course of committing the theft, attempted to kill another or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon; N.J.S.A. 2C:17-1(a) (aggravated arson); N.J.S.A. 2C:24-4 (endangering the welfare of a child); or an attempt to commit any of these offenses shall be eligible for medical parole.

(c) "Terminal condition, disease, or syndrome" means a prognosis by the licensed physicians designated by the Commissioner pursuant to (e) below that an inmate has six months or less to live.

(d) "Permanent physical incapacity" means a prognosis by the licensed physicians designated by the Commissioner pursuant to (e) below that an inmate has a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing.

(e) A medical diagnosis that an inmate is suffering from a terminal condition, disease, or syndrome or a permanent physical incapacity shall be made by two licensed physicians designated by the Commissioner. The diagnosis shall include, but not be limited to:

1. A description of the terminal condition, disease, or syndrome or the permanent physical incapacity;
2. A prognosis concerning the likelihood of recovery from the terminal condition, disease, or syndrome or the permanent physical incapacity;
3. A description of the inmate's physical incapacity; and
4. A description of the type of ongoing treatment that would be required if the inmate was released on medical parole.

(f) A request for a medical diagnosis to determine whether an inmate is eligible for a medical parole may be submitted to the appropriate Board panel by the Commissioner, the administrator or superintendent of a correctional facility; the inmate; a member of the family of the inmate; or the attorney for the inmate. The request shall be in writing and in a format prescribed by the Board.

(g) The appropriate Board panel shall conduct its review of a request for medical parole as expeditiously as possible. However, at least five working days prior to commencing its review of a request for a medical parole, the appropriate Board panel shall notify the appropriate sentencing court; county prosecutor or, if the matter was prosecuted by the Attorney General, the Attorney General; and any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole under N.J.S.A. 30:4-123.45 et seq. The notice shall be in writing and shall contain all such information and documentation relating to the medical diagnosis prepared pursuant to (e) above as the Board shall deem appropriate and necessary.

(h) Upon receipt of the notice provided by (g) above, the sentencing court; county prosecutor or Attorney General, as the case may be; the victim or member of the family of the victim, as the case may be, shall have 10 working days to review the notice and submit comments to the appropriate Board panel. If a recipient of the notice does not submit comments within the 10-day period following receipt of the notice, the Board panel may presume that the recipient does not wish to submit comments and may proceed with its consideration of the request for medical parole. Any comments provided by a recipient shall be delivered to the appropriate Board panel in the same manner or by the same method as notice was given by the Board panel to the recipient.

(i) The information contained in any notice given by the Board panel pursuant to (g) above and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized by the regulations of the Board or the Department to receive or review that information or those comments.

(j) Notice given pursuant to (g) above shall be in lieu of any other notice of parole consideration required under N.J.S.A. 30:4-123.45 et seq., and this chapter.

(k) Nothing in this section shall be construed to impair any party's right to be heard pursuant to N.J.S.A. 30:4-123.45 et seq.

(l) Upon a decision being rendered, the Board panel shall note on the record the reasons for granting or denying medical parole. The Board panel shall provide written notice of its decision to the sentencing court; the county prosecutor or Attorney General, as the case may be; and any victim or member of the family of the victim given notice pursuant to (g) above.]

(a) Pursuant to N.J.S.A. 30:4-123.51e.a, the court may release an inmate who qualifies for compassionate release at any time during the term of incarceration.

(b) An inmate granted compassionate release shall be subject to custody, supervision, and conditions, as provided at N.J.S.A. 30:4-123.59.

(c) An inmate granted compassionate release shall be subject to sanctions for a violation of a condition of compassionate release as if on parole, as provided at N.J.S.A. 30:4-123.60 through 30:4-123.65.

[(m)] **(d) Whenever an inmate is [granted medical parole pursuant to this section] to be considered for compassionate release by a court pursuant to N.J.S.A. 30:4-123.51e, the Board [panel] shall [require] ensure, as a condition precedent to compassionate release, that the release plan of the inmate includes:**

1. [Confirmation by the Division of Parole] **Identification** of a community sponsor or **supportive service (hospital, hospice, or nursing home facility);**

2. Verification [by the Division of Parole] of the availability of appropriate medical services sufficient to meet the treatment requirements identified [pursuant to (e)4 above] **in the medical diagnosis prepared by the Department and utilized to determine the inmate's eligibility for compassionate release; and**

3. Verification [by the Division of Parole] of appropriate housing, which may include, but need not be limited to, a hospital, hospice, nursing home facility, or other housing accommodation suitable to the inmate's medical condition, disease[,] or syndrome, or permanent physical incapacity.

(e) Upon the Board receiving notification from the court that an inmate is to be considered for compassionate release, the Division of Parole shall proceed to develop, on an expedited basis, a release plan for the inmate that addresses the requirements identified at (d) above.

(f) Upon the Division of Parole completing the inmate's release plan, the Board shall provide a copy of the release plan and any other relevant information to the court.

(g) Upon the Board receiving notification from the court that an inmate has been granted compassionate release, the Board shall issue a written certificate, which shall be delivered to and signed by the inmate. Such certificate shall include all general and special conditions of supervision.

[(n)] **(h) In addition to the conditions established pursuant to N.J.S.A. 30:4-123.59 and N.J.A.C. 10A:71-6.4(a), as a condition of compassionate release, the Board [panel] may require[, as a condition of release on medical parole,] an inmate to submit to periodic medical diagnoses by a licensed physician.**

[(o)] **(i) If, after review of a medical diagnosis required [under (n)] pursuant to (h) above, the Board [panel] determines that a parolee [released on medical parole] granted compassionate release is no longer so debilitated or incapacitated by a terminal condition, disease[,] or syndrome, or permanent physical incapacity as to be physically incapable of committing a crime or, in the case of a permanent physical incapacity, the parolee poses a threat to public safety, the [parolee shall be returned] Board shall so notify the prosecutor, who may initiate proceedings to return the inmate to confinement in an appropriate facility designated by the Commissioner.**

1. A decision to return the parolee to confinement shall be rendered only by the Board panel after a hearing conducted by the Board panel or by a hearing officer designated by the Chairperson.

i. Written notice of the time, date, and nature of the hearing shall be provided to the parolee by personal service or by regular mail to the parolee's address of record.

ii. The hearing shall be recorded by an electronic recording device.

iii. If the hearing is conducted by a hearing officer, the hearing officer shall prepare a written report which shall summarize the information provided at the hearing and the hearing officer's assessment as to whether the parolee should be returned to confinement.

(1) A copy of the written report shall be provided to the appropriate Board panel and the District Parole Supervisor.

(2) A copy of the written report shall be provided to the parolee in order that the parolee may comment on the report by submitting written comments to the Board panel. Comments shall be forwarded to the Board panel within seven days after receipt of the hearing officer's written report.

iv. Within 21 days of the hearing, the appropriate Board panel shall issue a written decision to the parolee, which shall include the decision of the Board panel and the particular reasons for the decision and the facts relied on, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.2.]

[2.] **(j) [Nothing in this subsection shall be construed to limit] Pursuant to N.J.S.A. 30:4-123.51e.j, there is no limitation on the authority of the Board, [the] an appropriate Board panel, or any parole officer to address a violation of a condition of parole pursuant to N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.**

[(p) An inmate placed on medical parole shall be subject to the custody, supervision and conditions as provided in N.J.S.A. 30:4-123.59 and N.J.A.C. 10A:71-6.1(a), 6.2, 6.4(a), (e) and (i), 6.6 and 6.7.

(q) An inmate placed on medical parole shall be subject to sanctions for a violation of a condition of parole as provided in N.J.S.A. 30:4-123.60 through 30:4-123.65 and N.J.A.C. 10A:71-7.]

[(r) **(k)** The denial of a [request for medical parole] **petition for compassionate release** or the return of a parolee to confinement pursuant to [(o) or (q)] **(i) or (j)** above shall not preclude [the] **an** inmate from being eligible for parole consideration pursuant to N.J.S.A. 30:4-123.51[(a)].a.

SUBCHAPTER 6. SUPERVISION

10A:71-6.4 Conditions of parole

(a) An offender granted parole shall comply with the following general conditions of parole:

1.-12. (No change.)

13. Refrain from the **unlawful** purchase, use, possession, distribution, or administration of [any]:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined [in] **at** N.J.S.A. 2C:35-2[;] **or** imitation controlled dangerous substance or imitation controlled dangerous substance analog as defined [in] **at** N.J.S.A. 2C:35-11, **other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a.3, and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b12;** or [any]

ii. Any paraphernalia as defined [in] **at** N.J.S.A. 2C:36-1 related to such substances, [except as prescribed by a physician] **other than if used, or intended to be used, for marijuana or hashish. This condition shall not apply to a controlled dangerous substance prescribed by a physician.**

14.-21. (No change.)

(b)-(i) (No change.)

(j) The District Parole Supervisor, an Assistant District Parole Supervisor, or the designated representative of the District Parole Supervisor shall not impose on any parolee any condition that would prohibit or restrict manufacturing, distributing, or dispensing, or possessing, or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

[(j)] **(k)** (No change in text.)

[(k)] **(l)** Except as provided at [(l)] **(m)** below, or unless otherwise directed by the Board panel or Board, a specific condition imposed in accordance with (d) above may be modified or vacated by the District Parole Supervisor, **or designated representative of the Commission,** if the circumstances of the parolee's case warrant such action.

[(l)] **(m)** (No change in text.)

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4.b upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-12. (No change.)

13. Refrain from the **unlawful** purchase, use, possession, distribution, or administration of [any]:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined [in] **at** N.J.S.A. 2C:35-2[;] **or** imitation controlled dangerous substance or imitation controlled dangerous substance analog as defined [in] **at** N.J.S.A. 2C:35-11, **other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3) and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12);** or [any]

ii. Any paraphernalia as defined [in] **at** N.J.S.A. 2C:36-1 related to such substances [except as prescribed by a physician;], **other than if used, or intended to be used, for marijuana or hashish. This condition shall**

not apply to a controlled dangerous substance prescribed by a physician.

14.-24. (No change.)

(c)-(m) (No change.)

10A:71-6.12 Parole supervision for life

(a)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-12. (No change.)

13. Refrain from the **unlawful** purchase, use, possession, distribution, or administration of [any]:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined [in] **at** N.J.S.A. 2C:35-2, **or** imitation controlled dangerous substance or imitation controlled dangerous substance analog as defined [in] **at** N.J.S.A. 2C:35-11, **other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3) and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12);** or [any]

ii. Any paraphernalia as defined [in] **at** N.J.S.A. 2C:36-1 related to such substances [except as prescribed by a physician;], **other than if used, or intended to be used, for marijuana or hashish. This condition shall not apply to a controlled dangerous substance prescribed by a physician.**

14.-27. (No change.)

(e)-(v) (No change.)

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.9 Status of parolee pending parole revocation hearing

(a)-(e) (No change.)

(f) Any condition established by a hearing officer pursuant to (e) above shall not be based on manufacturing, distributing, dispensing, possessing, or having under control with intent to manufacture, distribute, or dispense marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

[(f)] **(g)** (No change in text.)

10A:71-7.15 Status of parolee pending Board panel action

(a)-(e) (No change.)

(f) Any condition established by a hearing officer pursuant to (e) above shall not be based on manufacturing, distributing, dispensing, possessing, or having under control with intent to manufacture, distribute, or dispense marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

10A:71-7.17 Board panel action; schedule of future parole eligibility dates upon revocation of parole

(a)-(p) (No change.)

(q) A decision to revoke parole rendered pursuant to (a)2 or 3 above shall not be based on manufacturing, distributing, dispensing, possessing, or having under control with intent to manufacture, distribute, or dispense marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

(r) Any condition established by a Board panel pursuant to (a)1 or 2iii above shall not be based on manufacturing, distributing, dispensing, possessing, or having under control with intent to manufacture, distribute, or dispense marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12) or possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3).

CHAPTER 72
DIVISION OF PAROLE

SUBCHAPTER 16. REQUESTS TO RESIDE OUTSIDE OF THE
UNITED STATES OF AMERICA (USA)

10A:72-16.1 General provisions

(a) For purposes of this subchapter, outside of the United States of America (USA) refers to a country, commonwealth, or territory outside of the following geographical areas:

1. The 50 states of the USA;
2. The District of Columbia;
3. The Commonwealth of Puerto Rico; or
4. The territory of the United States Virgin Islands.

(b) A Board panel may permit an offender to reside outside of the USA, if the offender meets the criteria set forth at N.J.A.C. 10A:72-16.2 and 16.3.

(c) Except as specified at (d) below, the Board panel will consider requests to reside outside of the USA after the following periods of supervision have been completed:

1. In the case of an offender under parole supervision, after a period of two consecutive years.
 - i. An offender under parole supervision must have at least one year remaining on their supervision term prior to their maximum expiration date at the time of their submission of the request to reside outside of the USA; and
 2. In the case of an offender serving a special sentence of community or parole supervision for life, after a period of seven consecutive years.

(d) The following offenders are not eligible to apply to reside outside of the USA:

1. An offender who is serving a conditional discharge supervision term, pursuant to N.J.S.A. 30:4-27.32;
2. An offender who has an active special condition of electronic monitoring or Global Positioning System monitoring; or
3. An offender whose risk of re-offense has been determined to be high, pursuant to N.J.S.A. 2C:7-8.

(e) If an offender is under the supervision of the Board on behalf of another state pursuant to the Interstate Compact for Adult Offender Supervision, the offender shall be referred to their sending state in order to review a request to reside outside of the USA.

10A:72-16.2 Criteria

(a) A request to reside outside of the USA shall only be considered, provided the following requirements are satisfied:

1. There appears to be a legitimate basis for the request;
2. The request is consistent with the continued rehabilitation of the offender and will not compromise public safety;
3. The offender has made a satisfactory adjustment while under supervision and is currently in substantial compliance with the conditions of their supervision term;
4. The offender is not serving or mandated to serve any type of court-ordered incarceration or supervision term, in addition to the term being supervised by the Board;
5. The offender does not have any criminal charge(s), motor vehicle violation(s), and/or civil action(s) pending against him or her in any of the geographical areas specified at N.J.A.C. 10A:72-16.1(a);
6. The offender has remained offense-free from the inception of their supervision term or for a minimum of two consecutive years prior to the submission of the request, whichever is shorter. For purposes of this subchapter, an offense includes a conviction(s) for the following:
 - i. Disorderly persons offense or higher; or
 - ii. A charge for Driving While Intoxicated or Driving Under the Influence;
7. The offender does not have an active warrant(s) for their arrest;
8. The offender has achieved the Division of Parole's maintenance level of supervision or higher at the time of their submission of the request;

9. The offender shall have successfully completed programs, as mandated by a court order(s) and/or a condition(s) of supervision, including, but not limited to:

- i. A substance abuse counseling program;
- ii. A mental health counseling program (non-sex offender specific); and/or
- iii. An anger management program;

10. Successful completion of a condition of supervision mandating the offender participate in a substance abuse self-help or community support program, pursuant to (a)9 above, shall not be required;

11. The offender had a Level of Service Inventory-Revised (LSI-R) risk assessment conducted within 12 months of the date of the request to reside outside of the USA, indicating the offender is in the low, moderate, or medium risk for recidivism range;

12. The offender has met his or her goals, as outlined in his or her case plan agreement;

13. The offender has made full payment of any assessment, fine, penalty, lab fee, or restitution imposed by the sentencing court;

14. The country in which the offender intends to reside must have an active extradition treaty with the USA;

15. The offender provides an official letter from the embassy or consulate from the country, commonwealth, or territory in which the offender intends to reside indicating the offender shall be permitted to reside within their country, commonwealth, or territory. If an offender maintains citizenship with the country, commonwealth, or territory that he or she is requesting to reside, the offender shall provide official documentation verifying same.

i. The letter from the embassy or consulate must indicate that the country, commonwealth, or territory in which the offender intends to reside is aware of the offender's commitment offense(s) and his or her supervision status/term.

ii. An offender who is requesting to reside in a USA territory outside the geographical areas listed at N.J.A.C. 10A:72-16.1(a) (that is, American Samoa, Guam, and Northern Mariana Islands) is not required to obtain a letter pursuant to (a)15 above;

16. The offender provides documented proof of a viable residency plan for the country, commonwealth, or territory in which he or she is requesting to reside. Minimally, the offender shall provide proof in the form of at least one of the following, but not limited to, documents from the country, commonwealth, or territory in which the offender is requesting to reside:

- i. A deed or other recognized legal ownership document indicating the offender owns a residence in the country, commonwealth, or territory;
- ii. A lease or rental agreement for a residence indicating a promise of residency for the offender in the country, commonwealth, or territory; or
- iii. A notarized or verifiable letter from an identified person from within the offender's support network indicating they are willing to allow the offender to reside with them in the country, commonwealth, or territory until the offender achieves the ability to secure their own residence;

17. The offender provides a list of all individuals currently residing in the proposed residence. The offender shall provide the following, but not limited to, information regarding the individuals currently residing in the proposed residence:

- i. Full names;
- ii. Relationship to the offender; and
- iii. Ages;

18. The offender provides documented proof of a financial support plan within the country, commonwealth, or territory in which they are requesting to reside. Minimally, the offender shall provide proof in the form of at least one of the following, but not limited to, documents from the country, commonwealth, or territory in which the offender is requesting to reside:

- i. An official document verifying proof of business or real estate ownership indicating an ability for the offender to generate a sufficient income to maintain residency and livelihood in the country, commonwealth, or territory;

ii. A notarized or verifiable letter from a prospective employer in the country, commonwealth, or territory verifying a promise of legitimate employment for the offender upon their arrival in the country, commonwealth, or territory explaining the business functions of the employer, and the specific employment functions to be performed by the offender; or

iii. A notarized or verifiable letter from an identified person from within the offender's support network indicating they are willing to provide sufficient financial assistance to the offender to maintain their livelihood while in the country, commonwealth, or territory until the offender is able to secure their own legitimate source of income;

19. There is no known restraining order(s) against the offender involving any person(s) residing at the offender's proposed residence in the country, commonwealth, or territory;

20. There is no known victim(s) of the offender residing in or near the offender's proposed residence in the country, commonwealth, or territory;

21. There is no known co-defendant(s) of the offender residing in the offender's proposed residence in the country, commonwealth, or territory;

22. The offender shall provide the name and contact information for the governing law enforcement agency for the jurisdiction of the offender's proposed residence in the country, commonwealth, or territory;

23. The offender shall agree to communicate with the Board through an available means of video-teleconferencing or other specified means of communication, as directed by a parole officer while residing outside of the USA;

24. The offender shall agree to the execution of any notice of release of records information forms, as determined by the Board; and

25. The offender shall agree to participate in random drug and/or alcohol testing with a specified frequency of participation at a certified laboratory in the country, commonwealth, or territory in which the offender was approved to reside outside of the USA and to provide laboratory reports with confirmation of the results from all tests conducted.

(b) All documentation required to be provided by the offender in accordance with (a) above shall be legible and written in the English language. The offender shall be responsible to have any documentation translated into the English language, if required.

10A:72-16.3 Criteria; sex offenders

(a) In addition to the requirements at N.J.A.C. 10A:72-16.2, an offender who is under supervision due to a conviction for a sex offense(s) shall comply with the additional requirements specified in this section prior to being eligible to submit an application to reside outside of the USA.

1. If the offender's offense(s) for which he or she was convicted and sentenced to supervision involved a minor victim(s), the offender shall not be eligible to apply to reside in a proposed residence outside of the USA in which a minor(s) is residing, unless the offender has been approved for living with children privileges involving the minor(s) residing in the proposed residence pursuant to N.J.A.C. 10A:72-2.5.

2. The offender shall contact the governing law enforcement agency in the jurisdiction of his or her proposed residence in the country, commonwealth, or territory outside of the USA to confirm all sex offender registration requirements in that jurisdiction.

i. The offender shall provide documentation to the assigned parole officer confirming the sex offender registration requirements in the jurisdiction of the proposed residence in the country, commonwealth, or territory outside of the USA.

ii. If approved to reside in the proposed country, commonwealth, or territory outside of the USA, the offender shall be directed by their assigned parole officer that they must comply with any and all sex offender registration requirements of the jurisdiction in the country, commonwealth, or territory outside of the USA in which he or she may be approved to reside.

3. The offender shall have been assigned a sex offender tier level by the Superior Court—Law Division.

i. The offender's risk of re-offense must have been determined to be low or moderate pursuant to N.J.S.A. 2C:7-8 at the time of their request to reside outside of the USA.

ii. An offender whose risk of re-offense has been determined to be high pursuant to N.J.S.A. 2C:7-8 is not eligible to reside outside of the USA.

4. The offender shall have successfully completed a sex offender counseling program approved by the District Parole Office, or have been evaluated by a therapist approved by the District Parole Office, and the therapist has determined that the offender does not require any type of formal sex offender counseling.

i. The District Parole Supervisor, or designee, may require a sex offender who has already successfully completed sex offender counseling or has been evaluated by a therapist approved by the District Parole Office as not having to participate in a formal course of sex offender counseling to obtain a letter of recommendation from a sex offender therapist approved by the District Parole Office supporting their request to reside outside of the USA.

ii. The letter shall include a statement of the benefits for the offender being permitted to reside in a country, commonwealth, or territory outside of the USA, as compared to the risks involved with same. The letter shall be provided to the offender's assigned parole officer prior to or at the time the offender submits their request to reside outside of the USA.

5. An exception to (a)4 above shall be made for an offender who is enrolled in, and actively attending/participating in, sex offender counseling at the time of their request to reside outside of the USA and who has minimally achieved a maintenance level of therapy with the approved sex offender counseling program.

i. A maintenance level of therapy shall be determined by the parole officer, in conjunction with the therapist, but certain elements should be present in making this determination, such as, but not limited to, a reduced mandated frequency of attendance, appropriate progress in treatment, satisfactory attendance records over a prolonged period of time, and the development of an identifiable relapse prevention plan.

ii. Exceptions may be made to the maintenance level of therapy requirement, as determined by the District Parole Supervisor, or designee, for good cause.

iii. An offender who is still enrolled and actively attending/participating in sex offender counseling at the time of their request to reside outside of the USA and has achieved a maintenance level of therapy shall secure a letter of recommendation from their sex offender therapist supporting their request. The recommendation from their therapist shall include a statement as to the benefits for the offender residing outside of the USA, as compared to the risks involved with same. The letter shall be provided to the offender's assigned parole officer prior to or at the time the offender submits their request to reside outside of the USA.

6. The offender shall have had at least one of the following risk assessments conducted within the past 12 months prior to the submission of the request to reside outside of the USA and having achieved a score placing the offender in the low, moderate, or medium risk range to sexually re-offend:

i. A Static 99-R;

ii. A Stable 2007/Acute 2007; and/or

iii. A recognized risk assessment evaluation (for example, MnSOST-R) utilized to assess sex offender recidivism and deemed acceptable by the District Parole Office.

(b) The assigned parole officer shall contact the local law enforcement agency and the county prosecutor's office where the offender is currently approved to reside in order to advise of the offender's request to reside outside of the USA. In the event the offender is approved to reside outside of the USA, the assigned parole officer shall contact the local law enforcement agency and the county prosecutor's office to advise of the offender's approval and the offender's planned departure date.

10A:72-16.4 Requests to reside in a United States of America territory

(a) In the event an offender requests to reside in a USA territory outside of the geographical areas listed at N.J.A.C. 10A:72-16.1(a) (that is, American Samoa, Guam, and the Northern Mariana Islands), the assigned parole officer shall attempt to contact the parole supervision authority in the USA territory in which the offender is requesting to reside in order to verify whether that agency would be willing to supervise the offender on behalf of the Board if the offender is approved to reside there.

(b) If the parole supervision authority in the USA territory in which the offender is requesting to reside agrees to provide supervision of the offender on behalf of the Board, in the event the offender is approved to reside there, the assigned parole officer shall request that confirmation of same be forwarded in writing. The assigned parole officer shall also request contact information for the individual(s) in the parole supervision authority regarding supervision matters involving the offender.

(c) In addition to all conditions of supervision imposed by the Board, the offender shall adhere to all conditions of supervision imposed upon the offender by the parole supervision authority in the USA territory in which the offender is authorized to reside.

(d) The parole supervision authority in the USA territory in which the offender is residing is not permitted to place the offender into custody due to a violation(s) of a condition of supervision without an active Board parole warrant and/or criminal complaint being issued.

1. The assigned parole officer shall instruct the parole supervision authority in the USA territory to review any violation(s) with the Board as they incur. The assigned parole officer shall be responsible to address any violation(s) with the offender.

2. A violation(s) of the offender's supervision shall be addressed with the offender pursuant to N.J.A.C. 10A:72-16.9.

3. Action taken by the Board to address an offender's violation(s) of supervision shall be communicated to the parole supervision authority in the USA territory in which the offender is residing.

(e) If the parole supervision authority in the USA territory in which the offender is requesting to reside does not agree to provide supervision of the offender on behalf of the Board, in the event the offender is approved by the Board to reside there, the assigned parole officer shall request that confirmation of same be forwarded in writing.

1. Denial to supervise an offender on behalf of the Board by the USA territory in which the offender is requesting to reside does not preclude the offender from being approved to reside there.

10A:72-16.5 Request procedure

(a) If an offender seeks to reside outside of the USA, the offender shall notify his or her assigned parole officer in writing.

(b) Upon receipt of a request to reside outside of the USA, the assigned parole officer shall provide the offender with the requirements to do so, as specified at N.J.A.C. 10A:72-16.1, 16.2, and 16.3, if applicable.

(c) If the offender meets the requirements specified at N.J.A.C. 10A:72-16.1, 16.2, and 16.3, if applicable, the assigned parole officer shall:

1. Attempt to contact the proposed residential sponsor and/or employer, barring a language barrier conflict, through telephone to confirm the information provided by the offender; and

2. Conduct a check of appropriate law enforcement database systems to determine whether the offender has any outstanding charges or restraining orders.

(d) Once the offender has met the requirements, as set forth at N.J.A.C. 10A:72-16.1, 16.2, and 16.3, if applicable, and the assigned parole officer attempts to verify the proposed residential plan and/or employment, as specified at (c)1 above, the offender shall complete the application form to reside outside of the USA. The offender's assigned parole officer shall provide the offender with the application form and assist the offender with the completion of same, as needed.

(e) Once the offender has completed the application form, the offender's assigned parole officer shall complete the request form for

an offender to reside outside of the USA. The assigned parole officer shall interview the offender for necessary responses to questions and/or information required for the completion of the request form.

1. The assigned parole officer may provide the offender with an opportunity to rectify any deficiencies with their application form prior to the completion of the request form.

2. The assigned parole officer shall document on the request form whether the offender has satisfied the requirements specified in this subchapter to be eligible to apply to reside outside of the USA.

3. If the assigned parole officer indicates on the request form that the offender has not satisfied the requirements specified in this subchapter to be eligible to apply to reside outside of the USA, the assigned parole officer shall document the specific requirement(s) in which the offender failed to comply with during the application process in the comment section on the request form.

(f) Once the assigned parole officer has completed the request form, the assigned parole officer shall submit the following documentation with the offender's file to the District Parole Supervisor, or designee, for review:

1. An application form;

2. A request form;

3. All supporting documentation from the offender, as required at N.J.A.C. 10A:72-16.2 and 16.3, as applicable; and

4. All chronological supervision report entries since the inception of the offender's current supervision term.

(g) The District Parole Supervisor, or designee, shall review the offender's application, including all of the documentation provided by the assigned parole officer as set forth at (f) above, within 10 business days of the assigned parole officer submitting the application to the District Parole Supervisor, or designee.

(h) If the District Parole Supervisor, or designee, determines that the offender's application is deficient and the offender has not satisfied the requirements specified in this subchapter, the District Parole Supervisor, or designee, shall advise the assigned parole officer that the offender is not eligible to reside outside of the USA at this time and the offender's application shall be denied. The District Parole Supervisor, or designee, shall notify the offender, in writing, of the decision to deny the offender's application and the reasons for the denial.

(i) If the District Parole Supervisor, or designee, has determined that the offender has satisfied the requirements to reside outside of the USA, the District Parole Supervisor, or designee, shall forward, through email, the documentation listed at (f) above to the Director, Division of Parole, or designee, for his or her review.

(j) The Director, Division of Parole, or designee, shall review the offender's request to reside outside of the USA, including all of the documentation provided by the District Parole Supervisor, or designee, pursuant to (f) above, within 10 business days of the District Parole Supervisor, or designee, submitting the application to the Director, Division of Parole, or designee.

(k) If the Director, Division of Parole, or designee, identifies a deficiency(ies) in the offender's application, the Director, Division of Parole, or designee, shall notify the District Parole Supervisor, or designee, through email, of a directive as to how the offender may rectify the deficiency(ies) in their application to reside outside of the USA and request that the offender be notified as to same.

(l) Once the Director, Division of Parole, or designee, has completed his or her review, as specified at (j) above, and has determined that the offender has satisfied the requirements to reside outside of the USA, the District Parole Supervisor, or designee, shall submit the documentation set forth at (f) above to a Board panel designated by the Chairman.

(m) The designated Board panel shall render a final decision regarding the offender's request to reside outside of the USA within 30 days of the receipt of the application.

(n) The offender and the District Parole Office shall be advised, in writing, of the Board panel's decision. If denied, the reasons therefor shall be provided.

10A:72-16.6 Review of the Board panel decision by parole officer with the offender

(a) If the offender's request to reside outside of the USA was denied by the designated Board panel, the assigned parole officer shall schedule a meeting with the offender within five business days of receiving the notification of the Board panel's decision in order to provide the offender with a copy of same and to review the reasons for the denial with the offender.

1. An offender may appeal the denial of their request to reside in a country, commonwealth, or territory outside of the USA, pursuant to N.J.A.C. 10A:71-4.4.

(b) If the offender's request to reside outside of the USA was approved by the designated Board panel, the assigned parole officer shall schedule a meeting with the offender within five business days from the date of receiving the notification of the Board panel's decision in order to provide the offender with a copy of same and to discuss the offender's out-of-country departure plans.

(c) The offender shall be served with the following special conditions, as well as any other special conditions deemed reasonable in order to reduce the likelihood of recurrence of criminal behavior that may be imposed upon the offender:

1. Maintain a valid passport for the USA.

i. In the event the offender has been approved to reside in a USA territory outside of those listed at N.J.A.C. 10A:72-16.1(a), a requirement for the offender to comply with all supervision requirements and special conditions imposed by the parole supervision authority in the USA territory in which the offender has been approved to reside;

2. Comply with all laws and ordinances, including sex offender registration laws, where applicable, of the country, commonwealth, or territory in which the offender was approved to reside outside of the USA;

3. Contact the assigned parole officer through an available means of video communication or other specified means of communication, as directed by the assigned parole officer;

4. Notify the assigned parole officer of any address change(s) and provide the new address information prior to the offender changing residences in the country, commonwealth, or territory in which the offender was approved to reside outside of the USA;

5. Participate in random drug and/or alcohol testing with a specified frequency of participation at a certified laboratory in the country, commonwealth, or territory in which the offender was approved to reside outside of the USA and provide laboratory reports with confirmation of the results from all tests conducted;

6. Provide documented proof of a legitimate source of income, upon request;

7. Sign any release of records and/or information forms, as determined by the Board;

8. Report to the District Parole Office, within 48 hours of their arrival in the USA, in the event the offender voluntarily returns to the USA at any point in time;

9. Immediately return to the USA, as directed to do so by the Board, and report to the District Parole Office, as directed, within 48 hours of their arrival in the USA; and

10. Waive extradition to the State of New Jersey from any jurisdiction in which the offender is apprehended and detained for violation of parole and not to contest any effort by any jurisdiction to return the offender to the State of New Jersey.

(d) Before being permitted to reside outside of the USA, the offender shall be required to abide by the Case Plan Agreement and the special conditions, as evidenced by his or her signature affixed to the Case Plan Agreement and special condition form(s).

(e) If the offender should decline to abide by the Case Plan Agreement and special conditions, the decision to authorize the offender to reside outside of the USA shall be deemed to be suspended. The appropriate Board panel shall be notified, accordingly.

10A:72-16.7 Departure planning upon approval to reside outside of the USA

(a) When meeting with the offender to discuss the offender's out-of-country departure plans, the assigned parole officer shall inform the offender that he or she must obtain and maintain a valid passport for the USA that is in compliance with all current and updated requirements, as set forth by the Department of Homeland Security and/or any other issuing agency(ies), if the offender has been approved to reside in a country, commonwealth, or territory outside of the USA.

(b) The assigned parole officer shall advise the offender that travel arrangements resulting in the offender's departure from the USA to a country, commonwealth, or territory outside of the USA must be made within 180 days from the date of the approval by the designated Board panel.

1. An additional 180-day extension may be granted by the Director, Division of Parole, or designee, to allow the offender additional time to arrange their travel departure plans.

2. In the event an additional 180-day extension is denied and/or the offender fails to depart from the USA to the country, commonwealth, or territory they were approved to reside by the established deadline, the offender's permission to reside outside of the USA shall be deemed to be void. If deemed void and the offender wishes to resubmit his or her application and request to reside outside of the USA, the offender may do so pursuant to N.J.A.C. 10A:72-16.2 and 16.3, if applicable.

(c) The offender shall be required to provide proof to his or her assigned parole officer of the offender's valid passport, prior to the offender being granted permission to depart from the USA.

(d) Once the offender has satisfactorily provided proof of his or her valid passport, the assigned parole officer shall issue the offender a travel permit authorizing the offender to depart from the USA on the authorized date of departure.

(e) For a sex offender who has a registration requirement as a sex offender, the offender shall report to his or her local law enforcement agency where he or she currently resides, within 10 days of their planned departure, in order to unregister as a sex offender, effective as of the planned date of their departure from the USA.

(f) Within seven business days of the offender's planned departure date, the assigned parole officer shall meet with the offender to review the offender's travel plans, the offender's Case Plan Agreement, and all of the conditions of supervision for which the offender must abide by while residing outside of the USA.

1. The assigned parole officer shall remind the offender that he or she may voluntarily return to the USA. The offender shall be directed to contact the assigned parole officer prior to doing so, and the offender shall be directed to report in-person to the District Parole Office within 48 hours upon his or her arrival in the USA.

2. The assigned parole officer shall remind the offender that he or she must report back to the USA, if directed to do so by the Board, and that the offender must report to the District Parole Office within 48 hours upon his or her arrival in the USA.

(g) On the planned departure date, the offender shall contact their assigned parole officer to confirm his or her travel plans for that date.

(h) The assigned parole officer shall direct the offender to contact him or her upon their arrival in the country, commonwealth, or territory outside of the USA in which the offender was approved to reside.

(i) The assigned parole officer shall direct the offender to provide the assigned parole officer with the offender's new contact information within 30 days of his or her arrival in the country, commonwealth, or territory outside of the USA in which the offender was approved to reside.

10A:72-16.7 Supervision of an offender residing outside of the USA

(a) The assigned parole officer shall maintain communication with the offender, as stipulated in his or her Case Plan Agreement and/or by an imposed special condition, but no less than every 180 days. Communication with the offender shall be established through an available means of video communication, whenever possible. In the

event a video means of communication is not available, the offender may utilize the following methods, or any other reasonable method, of communication with his or her assigned parole officer:

1. Telephone;
2. Email; or
3. A handwritten or typed letter mailed to the Board and postmarked from within the country, commonwealth, or territory where the offender was approved to reside outside of the USA.

(b) The assigned parole officer shall document all contacts and communications with the offender in the offender's chronological supervision report.

10A:72-16.8 Voluntary return to the USA

(a) If an offender voluntarily decides to return to the USA, the offender shall contact his or her assigned parole officer to notify the assigned parole officer of the offender's plans to return to the USA. The information, including, but not limited to, the following, shall be communicated between the offender and the assigned parole officer prior to the offender's return to the USA:

1. The reason for the offender's intent to return to the USA;
2. The offender's date and time of planned departure from the country, commonwealth, or territory outside of the USA where the offender was approved to reside;
3. The offender's flight itinerary;
4. The offender's date and time of planned arrival in the USA;
5. The planned duration of the offender's stay in the USA.

i. In the event an offender who has voluntarily returned to the USA intends to return to his or her previously approved residence in a country, commonwealth, or territory outside of the USA within 30 days of his or her return to the USA, the offender may do so with permission from their assigned parole officer provided there have been no significant changes to the offender's previously approved residency plan in the country, commonwealth, or territory outside of the USA. The assigned parole officer shall review the offender's case while the offender is in the USA to determine if the offender's case plan needs to be updated and/or any further action needs to be taken at that time.

ii. If the offender intends to return to his or her previously approved residence or another residence in a country, commonwealth, or territory outside of the USA after 30 days of having returned to the USA, the offender shall comply with the procedures set forth at N.J.A.C. 10A:72-16.2 through 16.7;

6. If the offender's reason for returning to the USA is for visiting purposes, the offender shall provide his or her assigned parole officer with the address where the offender intends to reside while in the USA. The offender shall also provide their assigned parole officer with the contact person's name and telephone number at the residence where the offender will be residing while visiting in the USA.

i. Upon conclusion of the assigned parole officer's investigation of the proposed residence, the assigned parole officer shall advise the offender whether the offender is permitted to reside in the proposed residence while in the USA; and

7. The reporting instructions for the offender upon his or her return to the State of New Jersey within 48 hours of the offender's return to the USA.

(b) The assigned parole officer shall notify the local law enforcement agency and the county prosecutor's office of where the offender will be residing in New Jersey upon his or her return to the USA.

(c) For a sex offender who is required to register as a sex offender, the assigned parole officer shall direct the offender to report to their local law enforcement agency where the offender will be residing in New Jersey within 10 days, to make arrangements to register as a sex offender.

(d) Upon the offender returning to the country, commonwealth, or territory outside of the USA in which the offender is approved to reside, the offender, on the planned departure date, shall contact the offender's assigned parole officer to confirm his or her travel plans for that date.

(e) The assigned parole officer shall direct the offender to contact him or her upon their arrival in the country, commonwealth, or territory outside of the USA in which the offender is approved to reside.

10A:72-16.9 Violations

(a) In the event the assigned parole officer determines that the offender is in non-compliance with the conditions of his or her supervision term and is unable to gain compliance from the offender, despite efforts by the assigned parole officer to achieve same, and/or the offender commits a serious and/or persistent violation(s) of his or her supervision term, the assigned parole officer shall review the offender's case with the District Parole Supervisor for appropriate action to be taken.

(b) If the District Parole Supervisor has a reasonable, articulable belief that the offender should be ordered to return to the USA, the District Parole Supervisor shall refer the offender's case to the Director, Division of Parole, or designee.

1. If the Director, Division of Parole, or designee, agrees with the District Parole Supervisor's assessment, the Director, Division of Parole, or designee, shall present the offender's case to a Board panel, as designated by the Chairman.

2. The designated Board panel shall render a final decision regarding whether the offender shall be ordered to return to the USA.

3. The Director, Division of Parole, or designee, shall notify the District Parole Supervisor of the Board panel's determination.

4. The District Parole Supervisor, or designee, shall notify the assigned parole officer of the Board panel's determination.

5. If the decision of the Board panel is to order the offender to return to the USA by an established date with a mandate to report to the District Parole Office within 48 hours of the offender's arrival in the USA, the assigned parole officer shall notify the offender of same, in writing, and provide the basis for the order for the offender to return to the USA.

(c) In addition to notifying the offender that the offender is to return to the USA, the parole officer shall notify, in writing, the local law enforcement agency and the appropriate USA government official within the country, commonwealth, or territory in which the offender is residing that the offender has been ordered to return to the USA and the basis for the order.

(d) Once the offender has reported to the District Parole Office upon his or her return to the USA, the District Parole Supervisor shall determine whether good cause exists to permit the offender to return to the offender's approved residence outside of the USA by an established date or to rescind the offender's permission to reside outside of the USA. The District Parole Supervisor shall document his or her determination in the offender's chronological supervision record.

(e) In the event an offender's permission to reside outside of the USA is rescinded, the assigned parole officer shall notify the local law enforcement agency and the county prosecutor's office of where the offender is residing in New Jersey upon his or her return to the USA.

1. For a sex offender who is required to register as a sex offender, the assigned parole officer shall direct the offender to report to his or her local law enforcement agency where the offender will be residing in New Jersey within 10 days, to make arrangements to register as a sex offender.

(f) In the event an offender's permission to reside outside of the USA is rescinded, the offender shall comply with the procedures, as set forth at N.J.A.C. 10A:72-16.2 through 16.7, before being permitted to submit a request to reside outside of the USA.

(g) In the event that an offender's permission to reside outside of the USA is rescinded, the District Parole Supervisor, or designee, shall determine whether the implementation of the revocation hearing process, pursuant to N.J.A.C. 10A:71-7.17, is warranted, or in the case of an offender serving a special sentence of community or parole supervision for life, whether the filing of a criminal complaint is appropriate.