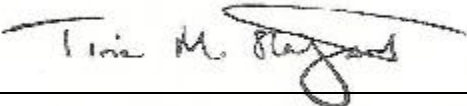
 <p><b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Board of Parole Interviews Held in Absentia</b></p>		<p>NO. 8610</p>
			<p>DATE 03/12/2020</p>
<p>SUPERSEDES</p> <p>DIR# 8610 Dtd. 03/30/17</p>	<p>DISTRIBUTION</p> <p>A B</p>	<p>PAGES</p> <p>PAGE 1 OF 2</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p> <p>Executive Law 259-c, 259-i; 9 NYCRR(CC), Parts 8002, 8006; ACA Expected Practice 2-1089</p>	<p>APPROVING AUTHORITY</p> 		

- I. **PURPOSE:** To instruct facility staff and the Board of Parole in processing a Board appearance regarding an inmate's waiver of appearance for a scheduled appearance before the Parole Board and when *in absentia* release consideration is to be conducted.
- II. **POLICY:** When *in absentia* parole release consideration is warranted, the Parole Board and facility staff will conduct such appearances in accordance with this procedure.
- III. **DEFINITIONS:** *In Absentia* Release Consideration: An *in absentia* parole release consideration is one that occurs without the presence and participation of the parole eligible inmate.
- IV. **PROCEDURE**
  - A. The Board of Parole shall conduct its release consideration *in absentia*, when a Board of Parole panel determines that:
    1. The inmate has waived his or her appearance or refused to appear before the interviewing panel for no stated reason; or
    2. The inmate has waived his or her appearance or refused to appear before the Board but has stated in writing his or her desire that the Board proceed with its discretionary consideration in their absence; or
    3. The inmate, because of medical, cognitive, or mental health reasons which are unlikely to abate within the reasonably foreseeable future, is incapacitated to such an extent that he or she is unable to:
      - a. Attend the interview; or
      - b. Meaningfully communicate with the Board.

Inmates who are confined in another jurisdiction for sentences that are running concurrent with the New York State sentence cannot request that the Parole Board conduct a release interview *in absentia*. In such cases, the inmate must be received by a New York State correctional facility before such an interview will be conducted.

B. Facility Staff

1. If an inmate waives their appearance before a panel of the Parole Board at his or her regularly scheduled release interview, the Board shall conduct the release consideration *in absentia*.
2. Please note that a postponement is not the same as a waiver of appearance. Thus, the attached forms are not to be signed when an inmate is simply seeking a postponement. The inmate must appear before the Board in the event of a postponement whenever possible.

3. Where an inmate waives his or her appearance before a panel of the Parole Board, the facility staff will interview the inmate and obtain the inmate's signature on [Form #8610A](#), "Waiver of Appearance." If the inmate fails or refuses to sign the document, such refusal shall be noted on the document by checking the box "REFUSED TO SIGN." Whether the inmate waives his or her appearance or refuses to sign, the form shall nonetheless be signed and dated by two facility staff members. The facility staff shall confirm an inmate's waiver either on the day before or the day of the scheduled interview. Confirmation shall be indicated by the inmate signing and dating the executed [Form #8610A](#). If the inmate refuses to do so, such refusal shall again be noted on the document by checking the box "REFUSED TO SIGN." Again, whether the inmate confirms his or her waiver of appearance by signing the confirmation of waiver or refusing to sign, the form shall be signed and dated by two facility staff members. If the inmate chooses to withdraw the waiver, the inmate will be allowed to appear as scheduled. The inmate will be instructed to sign the withdrawal of the waiver. If for whatever reason, the inmate wants to withdraw the waiver, yet not sign it, this refusal shall be noted on the document by checking the box "REFUSAL TO SIGN." Regardless of what the inmate chooses to do, the form shall be signed and dated by two facility staff members.
4. Where an inmate is unable to respond due to medical or mental health reasons, the facility staff will fill out [Form #8610B](#), "Non-Appearance Due to Medical or Mental Condition," which states that due to medical, cognitive, or mental health reasons which are unlikely to abate within the reasonably foreseeable future, is incapacitated to such an extent that he or she is unable to meaningfully communicate with or appear before the Board of Parole. This will be noted on the document by the facility staff.
5. All activity regarding the inmate's signing of [Form #8610A](#), his or her refusal to sign such form, or in the case of [Form #8610B](#), shall be recorded in the inmate's Case Management System (CMS) record.

C. Parole Board

When the Parole Board conducts its parole release consideration *in absentia*, it shall make a record of such consideration and the reasons for the decision.

## NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**Waiver of Appearance****TO:** The Board of Parole

I \_\_\_\_\_ wish to inform you that I  
(Inmate's Name) (Inmate DIN)

am not going to appear at my parole release interview scheduled for \_\_\_\_\_ at  
(mm/dd/yy)

the \_\_\_\_\_ Correctional Facility and understand that the Parole Board  
(Facility Name)

will make a determination regarding my possible release to community supervision in my absence.

Inmate Signature \_\_\_\_\_

Date: \_\_\_\_\_

\*\* If the above-referenced inmate refuses to appear, but refuses to sign the waiver above, please check the box below.

**REFUSED TO SIGN**

**Facility Staff Only:** Whether the inmate waives his or her appearance by completing the waiver or refusing to sign, please sign below under "Staff Member 1" or "Staff Member 2," print your name, and date your signature.

Staff Member 1:

Staff Member 2:

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CONFIRMATION OF WAIVER**

This is to confirm that I still wish to waive my appearance before the Board of Parole or that I still refuse to appear before the Board of Parole:

Check box. ☐

Inmate  
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*\*If the above-referenced inmate refuses to sign the confirmation of his or her waiver, please check the box below.

<input type="checkbox"/> <b>REFUSED TO SIGN</b>
-------------------------------------------------

Staff Member 1:

Staff Member 2:

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**WITHDRAWAL OF WAIVER OR REFUSAL TO APPEAR**

I, \_\_\_\_\_ wish to inform you that I  
(Inmate's Name) (Inmate DIN)  
am withdrawing my waiver of Appearance and that I am going to appear at my parole release  
interview scheduled for \_\_\_\_\_ at the \_\_\_\_\_  
(mm/dd/yy) (Facility Name)  
Correctional Facility.

Inmate  
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*\* If the above-referenced inmate decides that he or she does still want to appear before the Board, but refuses to sign the withdrawal of his/her waiver, please check the box below:

<input type="checkbox"/> <b>REFUSED TO SIGN</b>
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**Facility Staff Only:** Whether the inmate withdraws his or her waiver by signing the withdrawal of waiver above, or refusing to sign, please sign below under "Staff Member 1" or "Staff Member 2." Print your name and date of your signature.

Staff Member 1:

Signed: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Staff Member 2:

Signed: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution: Inmate File  
Parole File

## NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**Non-Appearance Due to Medical or Mental Condition****TO:** The Board of Parole

**Inmate** \_\_\_\_\_ has  
(Inmate's Name) (Inmate DIN)  
been medically evaluated by:

(Check all that apply):

\_\_\_\_\_ Health Services Staff Member: \_\_\_\_\_

\_\_\_\_\_ Hospital Staff located at: \_\_\_\_\_

\_\_\_\_\_ Other (including OMH staff) (please state): \_\_\_\_\_

and they have determined that Inmate \_\_\_\_\_  
(Inmate's Name)  
\_\_\_\_\_. Because of medical, cognitive, or mental health reasons  
(Inmate DIN)  
which are unlikely to abate within the reasonably foreseeable future, is incapacitated to  
such an extent that he/she is unable to meaningfully communicate with the Board of  
Parole or appear before it for his/her parole release interview scheduled for

\_\_\_\_\_ at the \_\_\_\_\_  
(mm/dd/yy) (Facility Name)  
Correctional Facility. Thus, the Parole Board will make a determination regarding the  
inmate's release to parole supervision *in absentia*.

Staff Member 1:Staff Member 2:

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Print  
Name: \_\_\_\_\_Print  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution: Inmate Folder  
Parole Folder  
Medical Folder