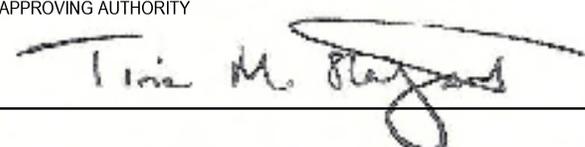


 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	TITLE <b>Board of Parole Interviews Held in Absentia</b>		NO. 8610
			DATE 3/30/2017
SUPERSEDES NYS Parole Policy and Procedure Manual Item 8345.00.	DISTRIBUTION A B	PAGES PAGE 1 OF 2	DATE LAST REVISED
REFERENCES (Include but are not limited to) Executive Law 259-c, 259-i; 9 NYCRR(CC), Parts 8002, 8006	APPROVING AUTHORITY 		

- I. **PURPOSE:** To instruct facility staff and the Board of Parole in processing a board appearance regarding an inmate's waiver of appearance or refusal to appear 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 appearance or refused to appear before the interviewing panel for no stated reason; or
    2. The inmate has waived 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 is not able to attend the interview for medical or mental health reasons.

Inmates who are confined in another jurisdiction for sentences that are running concurrent with the New York State sentence shall be sent a Waiver of Appearance four (4) months prior to the interview date, so that they may submit a Waiver of Appearance if they choose.
  - B. Facility Staff
    1. If an inmate waives the appearance or refuses to appear 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 or refusal to appear. Thus, the attached forms are not to be signed when an inmate is simply seeking a postponement. The inmate is to still appear before the Board when requesting an appearance.

3. Where an inmate waives appearance or refuses to appear 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 two facility staff members. The facility staff shall confirm an inmate's waiver or refusal to appear either the day before or on 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 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 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 or mental health reasons, the inmate is unable to be interviewed. This will be noted on the document by the facility staff.
  5. All activity regarding the inmate's signing of [Form #8610A](#), or 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.

STATE OF NEW YORK – DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**Waiver of Appearance**

**I. Waiver**

**TO:** The Board of Parole

I \_\_\_\_\_ wish to inform you that I am  
(Inmate's Name & DIN)  
not going to appear at my parole release interview scheduled for \_\_\_\_\_  
(mm/dd/yy)  
at the \_\_\_\_\_ Correctional Facility and understand that the Parole  
Board will make a determination regarding my possible release to community  
supervision in my absence.

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

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

**II. REFUSAL TO SIGN:**

Facility staff: If above-referenced inmate refuses to sign, please check box and sign below under "Staff Member 1 or Staff Member 2", print your name, and date your signature.

REFUSED TO SIGN

Staff Member 1:

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

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

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

Staff Member 2:

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

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

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

**III. CONFIRMATION OF WAIVER**

I wish 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.

Signed by Inmate: \_\_\_\_\_

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

**REFUSAL TO SIGN:**

Facility staff: If above-referenced inmate refuses to sign, please check box and sign below under "Staff Member 1 or Staff Member 2", print your name, and date your signature.

REFUSED TO SIGN

Staff Member 1:

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

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

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

Staff Member 2:

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

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

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

**IV. WITHDRAWAL OF WAIVER OR REFUSAL TO APPEAR**

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

my waiver and that I am going to appear at my parole release interview scheduled for

\_\_\_\_\_ at the \_\_\_\_\_ Correctional Facility.  
(mm/dd/yy)

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

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

**REFUSAL TO SIGN:**

Facility staff: If above-referenced inmate decides that he or she does still want to appear before the Board but refuses to sign, please check box and sign below under "Staff Member 1 or Staff Member 2", print your name, and date your signature.

INMATE WANTS TO WITHDRAW WAIVER AND APPEAR BEFORE THE BOARD OF PAROLE BUT REFUSED TO SIGN

Staff Member 1:

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

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

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

Staff Member 2:

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

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

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

Dist: Inmate File  
Parole File

STATE OF NEW YORK – DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**Non-Appearance Due to Medical or Mental Condition**

**TO:** The Board of Parole

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

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 and DIN)

has been deemed medically or mentally incapacitated to appear before the Board of Parole for his or her parole release interview scheduled for \_\_\_\_\_  
(mm/dd/yy)

at the \_\_\_\_\_ Correctional Facility. As noted in the medical records and in the inmate's case management system (CMS) record, the inmate is medically or mentally unable to communicate with the Board of Parole. Thus, the Parole Board will make a determination regarding the inmate's release to parole supervision in absentia.

Staff Member 1: Signed: \_\_\_\_\_

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

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

Staff Member 2: Signed: \_\_\_\_\_

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

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

Dist: Inmate Folder  
Parole Folder  
Medical Folder