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NEVADA BOARD OF PAROLE COMMISSIONERS

MINUTES

Meeting of the

Board of Parole Commissioners

April 30, 2024

MINUTES APPROVED ON JUNE 27, 2024

NOTE: The following minutes have not been approved and are subject to revision at the next meeting of the Board.

The Board of Parole Commissioners held a public meeting on April 30, 2024, beginning at 1:00 PM at the following locations:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV, and video conference at the Parole Board Office, 4000 S. Eastern Avenue, Ste. 130, Las Vegas, NV.

I. Open Meeting, call to order, roll call 1:02 PM.

The meeting was called to order by Chairman DeRicco. Present in the Carson City office were Commissioner Baker, Commissioner Weisenthal, and Chairman DeRicco. Present in the Las Vegas office were Commissioner Christiansen, Commissioner Bailey, and Commissioner Schmitt. Chairman DeRicco noted there was currently one vacancy on the Board.

Support staff in attendance:

- Kelly Mellinger, Hearings Examiner II
- Forrest Harter, Hearings Examiner I
- Mary Flores, Administrative Assistant III

Members of the public present in Carson City included:
None.

Members of the public present in Las Vegas included:
Adam Honey, Deputy Attorney General

II. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

III. For possible action: Review/Approval of minutes from the January 31, 2024, Board meeting.

Motion:	Approve the minutes from the January 31, 2024, Board meeting as distributed.
Made:	Commissioner Baker
Seconded By:	Commissioner Bailey
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None
Results:	Motion passed

IV. For discussion and possible action: Presentation by Paul G. Corrado. This presentation, discussion, and possible action will encompass any submitted documentation presented to the Board by Mr. Corrado at this meeting regarding his request to receive Board support and approval of the documents he wishes to distribute to Nevada Department of Corrections inmates. The Board will discuss and may take action to either support or deny his request.

Chairman DeRicco stated that this item was being removed from the agenda as Mr. Corrado was unable to be present. He further stated that the Board may evaluate his request at a subsequent meeting.

V. For discussion and possible action: The Board will discuss and may take action to update, modify, or approve the “Operation of the Board” document that outlines the procedural functioning of the Board. This document may be updated and modified in the future as needed.

Chairman DeRicco opened this agenda item by stating that whenever the Board has an opportunity to provide clarity to the Operation of the Board document, it is addressed at a Board meeting. He stated there is one section of the document to be reviewed, Parole Violation Hearings. He further stated that the Board’s Deputy Attorney General has also reviewed the provided documents. He explained that it is Board’s job to decide on the language that will be approved. He stated that even though the language changes and additions are only in a few places in the section, he would read through the entire section for review. He then proceeded to read through the Parole Violation Hearings section in its entirety.

After reading the section, Chairman DeRicco stated that there is an additional handout that does not need to be approved by the Board, the Certification of Action. He stated this is the document that is completed for every parole violation hearing and that some changes have been made to provide additional clarity. He further explained that although this document does not need to be approved by the Board, he wanted to go over the updates with the Board.

Chairman DeRicco stated that the first change on the Certification of Action was changing the wording from “Parole is Temporarily Revoked,” to “Temporarily Revoke Parole Supervision,” as this is the language that is used in statute. He read through the rest of the section with the proposed language changes. He stated that the additional sentence in this section was included to provide clarification to the offenders that they would be on institutional parole and that any disciplinary infractions that occur while they are temporarily revoked could result in an additional parole violation hearing.

Commissioner Baker asked if an offender on institutional parole is receiving the same credits as on offender on community parole. Chairman DeRicco stated that they are receiving the same credits.

Chairman DeRicco stated the other change on the form was to add check boxes in the “Parole is revoked to,” box. He continued that the Board could check the “expiration” box or the “next eligibility dated of” box when revoking supervision. He explained this was to provide clarity to the offender that they would have another parole hearing and eligibility date if they were not being revoked to the expiration of their sentence.

Chairman DeRicco asked if there was further discussion or questions on the Certification of Action form or on the Operation of the Board document.

Commissioner Bailey asked about number ten on the Parole Violation Hearings section. She asked if there was any language that discusses what the Board should do when an attorney is suggesting a continuation of the parole violation hearing but the violator is not and wants to go forward. Chairman DeRicco stated there is not currently any language that discusses that scenario. Chairman DeRicco stated that he does know that this happens at violation hearings, but that ultimately it is up to the inmate on how they would like to proceed. Chairman DeRicco stated when an inmate wants to go forward at their hearing, but counsel is advising them against it, the inmate then has the option of waiving their counsel, or the counsel can agree to represent them even though they are advising them to continue. Chairman DeRicco stated that he did not know whether the Board should or should not add language to the Operation of the Board document for these scenarios, or if the Board should regard these situations on a case-by-case basis. Chairman DeRicco asked Deputy Attorney General, Adam Honey, if he had any thoughts.

Mr. Honey advised that the Board should leave the language as it is as this is an issue between the parolee and their counsel. He stated that it is up to them to make the determination as to whether they move forward or continue a parole violation hearing. He further stated that the Parole Board is not going to force someone to go forward with their hearing with or without representation, and that it is up to the parolee as to how they want to proceed.

Chairman DeRicco stated that due to the Breck Smith case, the Board is prepared to move forward for each hearing and will see an offender within sixty days. However, he further stated that if counsel and the parolee decide they need more time to go over their case, and request a continuance, the Board can agree to that. He also stated that the Board will step out of the room and allow the parolees and their attorneys to speak off record if they need to discuss the situation further.

Chairman DeRicco recommended, along with the advisement of counsel, to not change the language in this section of the Operation of the Board document and to let these situations be decided by the parolee and their counsel.

Commissioner Bailey reiterated that if an attorney does not want to go forward with a hearing, but the parolee does, then the Board has to go forward. Chairman DeRicco answered in the affirmative and that the Board would need to then ask the violator if they wanted to proceed with their hearing with counsel or without counsel. He further stated that if the violator wants to waive counsel, the Board will need to have the appropriate waivers and acknowledgments signed.

Chairman DeRicco asked if there were any further questions or discussion regarding the Parole Violation Hearings section. No further discussion.

Motion:	Approve the Parole Violation Hearings section as distributed.
Made:	Chairman DeRicco
Seconded By:	Commissioner Weisenthal
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None
Results:	Motion passed

VI. For discussion and possible action: The Board will discuss and may take action to update or modify the Aggravating and Mitigating Definitions. This may include the following sections including, but not limited to: Repetitive similar criminal conduct; Crime was targeted against a child, or person of greater vulnerability, because of age or disability; Impact on the community and each victim of the crime; and Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision.

Kelly Mellinger, Hearings Examiner II, opened this agenda item. She stated that there were proposed updates to four sections of the Aggravating and Mitigating Factors definitions. She explained that the first change in “Repetitive similar criminal conduct,” is removing the word “the” and capitalizing “Prior.” The next change suggested change is to add the words “pre-sentence investigation” in order to define “PSI” in the “Crime is targeted against a child, or person or greater vulnerability” definition. She continued that the third proposed change to the document is to remove the last sentence in the “Impact on the community and each victim of the crime” definition. She stated that the final suggested change is to provide clarity in the definition for “Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision,” by adding the word “committed.”

Chairman DeRicco opened this agenda item for discussion. He stated that the first proposed change was to provide a grammatical correction and that the second change was to define PSI. He explained that the third change is to allow the Board to use the aggravating factor of “Impact on the community and each victim of the crime,” on enhancement charges as the Board should consider all factors for each offense.

Commissioner Baker clarified that this can now be used on Use of Deadly Weapon enhancement charges. Chairman DeRicco answered in the affirmative and stated that this factor can now be used in all cases in which it applies.

For the final proposed change, Chairman DeRicco stated that clarity is provided by adding the word “committed” in the definition for the factor of “Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision.” He explained that the Board is concerned when a crime was committed and not necessarily when the conviction occurred.

No further discussion.

Motion:	Approve the aggravating factors titled Repetitive similar criminal conduct; Crime was targeted against a child, or person of greater vulnerability, because of age or disability; Impact on the community and each victim of the crime; and Commission of a crime while incarcerated, on bail, on escape status, eluding, or while under parole or probation supervision as submitted and that their use become effective immediately.
Made:	Chairman DeRicco
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None
Results:	Motion passed

VII. For discussion and possible action: Review and approval of language for standard and special conditions of parole for use on future parole orders. The Board may also consider adding special conditions including, but not limited to co-occurring substance abuse and mental health evaluations.

Chairman DeRicco invited Kelly Mellinger to lead this agenda item. He stated that she will provide the Board with an overview, and the Board will discuss. He continued that the proposed changes have been reviewed by the Deputy Attorney General and the Division of Parole and Probation.

Ms. Mellinger stated that four separate handouts were provided. She continued that one is titled “Proposed changes to Special Conditions,” with the proposed changes and the removal of the current language with red strikethroughs, and another handout titled “Proposed changes to Special Conditions,” that is the same proposed language but with the red strikethroughs removed. She stated that the other two documents are of a similar format, but for the standard conditions of parole. She stated that these documents were reviewed by Parole and Probation, and they provided their input. She emphasized that all the conditions now have a title to make it easier to identify and find each condition.

Chairman DeRicco stated that he would read through the clean version of the document so the Board can hear the language as it is proposed. He stated that the prior conditions included Directive A, Directive B, and Directive H – Directives, and that oftentimes there were questions as to what are Directives and/or Conduct. He stated that the proposed changes were done to provide clarification to the Board, the Division, and the parolees. He then began to read through the document titled “Proposed changes to Standard Conditions.”

Commissioner Baker asked if the first line of the document, “You shall follow the rules of the Division of Parole and Probation to include the following,” was necessary. She stated that this statement infers that the Division has other rules. Chairman DeRicco stated that the language was pulled Directives language on the old document and made into a heading. He agreed that it may not be necessary. Commissioner Schmitt stated that she liked the wording as it made it very clear to the parolees that these are the rules to be followed. Commissioner Baker stated that Commissioner Schmitt’s statement was valid, but she felt like it was unnecessary language. Commissioner Weisenthal recommended removing the words, “to include the following.” Chairman DeRicco added that these are not the rules of the Division of Parole and Probation but rather the conditions set by the Board. Commissioner Schmitt suggested, “You shall follow the conditions of the Division of Parole and Probation,” as opposed to rules. Commissioner Baker recommended, “You shall follow the standard conditions of parole.” There

was further discussion as to whether the Division of Parole and Probation or the Parole Board should be included in the heading. Chairman DeRicco suggested, "You shall follow the conditions of parole to include the following." Commissioner Baker suggested, "You shall comply with the following standard conditions of parole." Chairman DeRicco stated that he was not sure if the system the Board uses, NOTIS, would be able to capture a heading. He stated the previous wording was entered in NOTIS as a text box linked to Directives. He stated that we generate the conditions, but Parole and Probation generates the parole agreement that the parolee signs. He stated the wording that is being discussed may be something that they can put on their document, while the Board inputs the conditions. Commissioner Christiansen recommended, "Your parole grant requires you to comply with the following conditions." Commissioner Baker stated that she liked that wording. The Board concurred. Chairman DeRicco agreed and changed the first sentence of the document to, "Your parole grant requires you to comply with the following conditions."

Chairman DeRicco continued reading through the document.

Commissioner Schmitt asked if there was no longer a 24-hour requirement. She asked if there were any time constraints as to when a parolee must notify their officer of a residence change. Chairman DeRicco stated there has not previously been a time restraint. Commissioner Baker stated that Parole and Probation could impose a time restriction, and then asked if the Division had seen the updated conditions. Chairman DeRicco answered in the affirmative that the Division had reviewed the conditions and gave their input. Chairman DeRicco stated that there was never any time frame in the state parole conditions. Commissioner Schmitt stated that in parole violation hearings she hears that the parolee will let their parole officer know of a change in their residence but that there is not any timeframe in which that is required. She continued that Las Vegas Metro has a 48-hour requirement and that it may be something for the Board to consider. Chairman DeRicco stated that condition reads, "You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation, in each instance." He stated this means that if a parolee moves without first obtaining permission, they have violated that condition regardless of a timeframe. The Board agreed.

Chairman DeRicco continued to read the document and stated that in the next condition, reporting, the proposed language came from the Division. He stated that he was informed that not all parolees have the same reporting requirements. He continued that the previous language required parolees to report in person, each month, while this is not always required for each individual. He further stated that the Division may be changing the ways they require parolees to report, so the old language was no longer valid in every case. He continued reading through the document.

After Chairman DeRicco read the updated Associates condition, Commissioner Weisenthal asked if the Division requested to remove the language, "persons who are engaged in criminal activity," as this is not in updated version. Chairman DeRicco could not recall if that was a request from the Division or not. Commissioner Weisenthal stated that sometimes in parole violation hearings the Division has violated someone on the Associates condition because the parolee was associating with someone who had been using drugs. He continued that the argument from the parolee and their counsel is that the associate was not a convicted felon and they had not been arrested for drug use, but the Division will argue that the criminal activity was the drug use and would violate the Associates condition. Chairman DeRicco stated that if there was true criminal activity from an associate than they would likely be arrested. Commissioner Baker stated that the language is very subjective, and criminal activity can be argued as to what that means. She stated that what she likes about the updated language is that it is much more specific. Chairman DeRicco agreed with Commissioner Baker and likes the specificity of the updated

language. Commissioner Bailey stated that she liked the language of “persons engaged in criminal activity,” because what if they are not a convicted felon but are engaging in criminal activity. Commissioner Schmitt agreed and stated that sometimes they have not been convicted but they are engaging in criminal activity together. The Board agreed to add back in the stricken language. Chairman DeRicco read the condition as, “You shall not associate with convicted felons, persons who are engaged in criminal activity, any person on probation or parole supervision, or other persons with whom your supervising officer instructs you not to associate.”

Chairman DeRicco read the Graduated Sanctions condition and explained that this is a new condition that was added to take the place of the previous Directives condition and the language is taken from statute.

Chairman DeRicco continued reading through the document. He then asked if there was any further discussion on the standard conditions.

Commissioner Schmitt asked whether ‘Directive H. – Directives’ was removed in totality from the document. Chairman DeRicco stated that it was and that it was replaced with the new ‘Graduated Sanctions’ condition.

There was no further discussion.

Motion:	Approve the standard conditions of parole as modified.
Made:	Chairman DeRicco
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None
Results:	Motion passed

Chairman DeRicco stated that he would read through the clean version of the Proposed changes to Special Conditions document. He further stated that the headings on the left-hand side of the document are headings in NOTIS. He began to read through the document.

After reading the special condition Substance Abuse Evaluation, Chairman DeRicco explained that 60 days had replaced 30 days after conversations with the Division. He further explained that while a parolee may get an evaluation within 30 days of their release from the NDOC, the evaluation would take longer than that to be provided to the Division. He stated that by increasing the timeframe to 60 days it allows parolees time to get the evaluation and provide the required documentation. Commissioner Baker stated that another problem she has seen is that some programs require a 30-day blackout period and they individual may not be able to get an evaluation until after that period has passed. She agreed that 60 days is more reasonable. Chairman DeRicco continued reading through the document.

Commissioner Schmitt requested the work “to” be removed from the Mental Health Medication/Treatment Coordination condition, so the condition reads, “You shall not be released on parole...”. Chairman DeRicco agreed that this was a typo and will be corrected. Chairman DeRicco also stated that when the Board uses this condition, they do not also need to impose the Mental Health Evaluation condition.

Commissioner Baker stated she has seen at parole violation hearings the Division charge someone with this condition violation when the NDOC do not do their part in setting up the medication/treatment, rather than the parolee doing something wrong. She stated in these cases the Board has dismissed that violation or the Division has withdrawn. She stated that this language is better but that she is concerned that a parolee may be violated for something that was out of their control. Chairman DeRicco stated that if someone was released without the proper medication and this condition was imposed, it would be the responsibility of the Division to assist the parolee. He stated that if the parolee then does not follow through on the treatment, then it could be used as a violation.

Chairman DeRicco recommended changing the language in the Reentry Program condition to read, "...prescribed by NDOC treatment program pursuant to NRS 209 and/or NRS 213. Commissioner Baker and Adam Honey agreed. Chairman DeRicco also recommended changing the language in the Judicial Program condition to read, "...successfully complete a judicial program pursuant to NRS 209 and/or NRS 213." Commissioner Weisenthal asked for clarification on the two separate conditions for judicial programs. Chairman DeRicco stated that one condition is for reentry or judicial programs that an individual is participating in prior to their release from the NDOC and will continue upon their release on parole, such as the MAT program. The other condition, Judicial Program, will more likely be used as a condition modification or upon request from the Division as a graduated sanction. Commissioner Baker stated this condition could also be used for Residential Confinement inmates who are already in a judicial program such as the 184 program or drug court.

Chairman DeRicco continued reading through the document. He stated that the sex offender conditions would be reviewed and discussed at a subsequent Board meeting.

Chairman DeRicco stated that if the Board uses the Co-Occurring Evaluation condition, the Board will not need to impose the Substance Abuse Evaluation and Mental Health Evaluation conditions as this one condition covers both.

Commissioner Bailey asked about the additional wording that was included in the No Gang Contact condition. She asked what would be the reasoning that the Division would authorize the possession of gang paraphernalia or gang contact. Commissioner Schmitt stated that the Division may authorize gang contact with family members, but not have gang paraphernalia. Chairman DeRicco agreed with Commissioner Schmitt and stated that this language gives the Division the ability to authorize that contact. Commissioner Baker stated that the Board needs to give the Division some leeway in supervising parolees and make exceptions when necessary.

Commissioner Christiansen asked if the Board should add language specifying the type of motorized vehicle in the No Driving Without Approval condition. He stated that driving could encompass golf carts and motorized scooters. Chairman DeRicco stated that the Board generally imposes this condition on offenders who have been convicted of DUI and is generally intended for a motor vehicle. Chairman DeRicco stated that this condition is expanded to include motorized scooters or other forms of transportation, this could limit the parolees' abilities to maintain employment and report to their officer. Commissioner Christiansen stated that this condition is imposed on DUI cases to try to eliminate risk to the community. Chairman DeRicco read the condition and stated that it is up to the Division of Parole and Probation to give authorization to drive after presenting proof of a license and insurance. Commissioner Christiansen stated that he is good with the language as it is in the document. Chairman DeRicco asked Deputy Attorney General, Adam Honey, if he had any thoughts on this condition. Mr. Honey stated that the proposed condition covers 99% of the instances that the Board is trying to cover.

He asked if the Board has the ability to create conditions that are not currently listed. Chairman DeRicco stated that the Board can impose specialized conditions under the free flow condition when necessary. He further stated that if an individual has a DUI on an e-bike or electric scooter, the Board could use the impose certain prohibitions based on that crime. Chairman DeRicco asked the Board if they agreed on the provided language in the No Driving Without Approval condition, and then the Board could use the free flow condition if warranted. The Board agreed.

Commissioner Bailey asked why No Victim Contact was removed from the special conditions. Chairman DeRicco stated that it is a standard condition and is applied to every parolee. He further stated that this was made a standard condition many years ago but was just never removed from the special conditions.

Chairman DeRicco asked if there were further questions or discussion regarding the special conditions.

Commissioner Baker thanked the staff who worked on this project.

Motion:	Approve the special conditions of parole as submitted and modified.
Made:	Chairman DeRicco
Seconded By:	Commissioner Schmitt
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None
Results:	Motion passed

Chairman DeRicco stated the updated special and standard conditions will become effective once they are implemented into the NOTIS system. He further stated that once the conditions are effective, at parole violation hearings, the Board can write on the Certification of Action order, “Update to new conditions.” He stated then the offenders will be cycled off the old conditions and updated to the new conditions.

VIII. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

IX. For possible action: The Board may act to adjourn the meeting.

Motion:	To adjourn the April 30, 2024, meeting of the Nevada Board of Parole Commissioners.
Made:	Commissioner Bailey
Seconded By:	Commissioner Christiansen
Votes in Favor:	DeRicco, Baker, Weisenthal, Christiansen, Bailey, Schmitt
Votes Opposed:	None

Results:	Motion passed
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