



LPS TRAINING MANUAL

Los Angeles County Department of
Mental Health

**Redesigned/ Rewritten by:
Kathleen Piché**

“How to write a 5150/5585” written by John Snibbe

**We wish to acknowledge the work and dedication of Barbara Lurie and
David Engleman in writing previous training manuals that contribute to this
version**



***This handbook may be found on the Los Angeles County Department of Mental
Health Website (Lacdmh.org). Click on “trainings,” then “applications.”**

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Part One

Module One

This module reviews the historical framework of the Lanterman-Petris-Short Act.

Learning Objectives:

At the conclusion of this module, the student will be able to describe:

1. Why the LPS Act was initiated.
2. Purpose and intent of LPS Act.

Overview

History:

In the late 1960's, the California Legislature instituted a groundbreaking bill to change how persons with mental disabilities were to be treated in this State. The law was hailed across the country as the most progressive and humane piece of legislation to date. It was mandated that a mentally disabled person be treated in the least restrictive setting and given the right, just as any person has, to be heard in court when detained involuntarily.

Legislative Intent:

The California Mental Health Act (Sections 5000 to 8000 of the Welfare and Institutions Code), also known as the LPS Act, begins by promoting the legislative intent:

- Most important was: to end the inappropriate, indefinite, involuntary commitment of mentally disordered persons;
- To provide prompt evaluation and treatment of persons with serious mental disorders;
- To guarantee and protect public safety;
- To safeguard individual rights through judicial review;
- To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;
- To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures;
- To protect mentally disordered persons and developmentally disabled persons from criminal acts.

Prior to LPS, there were insufficient standards for who could be placed involuntarily into the hospital or for how long.

- Involuntary patients had no legal way to appeal their hospital stay. Criminals had more due process rights than mental health patients. Many abuses toward patients occurred.
- Patients had no rights once they were hospitalized. All civil and constitutional rights were denied.

Q: Self-Assessment Exercise:

1) Why was the LPS Act initiated?

- a) Prior to LPS, there were insufficient standards for who could be placed involuntarily into the hospital or for how long.
- b) There was no legally systematic way for involuntary patients to get out of the hospital. Criminals had more due process rights than mental health patients.
- c) Patients had no rights once they were hospitalized.
- d) All of the above

2) What is the primary intent of the LPS Act?

- T F To end the inappropriate, indefinite, involuntary commitment of mentally disordered persons.
- T F To provide prompt evaluation and treatment of persons with serious mental disorders.
- T F To guarantee and protect public safety.
- T F To safeguard individual rights through judicial review.
- T F To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons.
- T F To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures.
- T F To protect mentally disordered persons and developmentally disabled persons from criminal acts.

A: Self-Assessment Exercise, Feedback:

- 1) **D**, All of the above
- 3) All **"T"**

Module 2

This module reviews the definition of a 72- hour involuntary hold, who may write, what advisement is necessary, and where to write

Learning Objectives:

At the conclusion of this module, the student will be able to:

1. Describe what a 5150 is
2. Describe who may write a 5150
3. Explain where a 5150 may be written to
4. Know what advisement is necessary when placing a person on a 5150

Overview

What is a 5150 or 72-hour hold?

A 5150, or 72-hour hold, is a means by which someone who is in serious need of mental health treatment can be transported to a designated psychiatric inpatient facility for evaluation and treatment for up to 72-hours against their will. If the facility feels that further treatment is indicated, the person can be held involuntarily for additional lengths of time providing he or she meets the legal criteria and is unwilling or unable to remain voluntarily. (See Part Two, "Mechanics of Involuntary Detention," on page 39 of this manual)

As described in the Welfare and Institutions Code (WIC) 5151, **a 72- hour hold is an application for involuntary admission**, not a direct admission form. It gets the individual to the door, then *"the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention" (face to face assessment).*

If, in the professional's judgment, the person can be **properly served** (WIC 5151) without being detained; then he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.

If the patient is being held on the basis of danger to others, the application should document the specific threats or attempts at bodily harm the person in question has made, along with the dates, if known. This information is not only needed for the 72-hour hold, but may be essential for the establishment of a subsequent 180-day detention.

It is important that the form be **legibly** completed (in ink) since even the best information is worthless if unreadable. Moreover, the signer's name must be decipherable. If the signatory's handwriting is not recognizable, then the name should be printed along with the signature.

Advisement

When persons are taken into custody on a 72-hour hold, they must be told (WIC 5157):

- (a) The name, position, and agency of the person initiating the custody;
- (b) The name of the facility where they will be evaluated;
- (c) That they are not under criminal arrest, but are being detained for evaluation by mental health professionals; and
- (d) That they will be told their rights by the staff at the facility.

If taken into custody at their residence, they must also be advised that:

- (a) They may bring a few approved personal items with them; and
- (b) They may make a phone call and/or leave a note to tell friends or family where they have been taken.

An inability to complete the (verbal) advisement is allowed for **good cause only**, and the reasons for failing to advise the client must be entered by the designated person on the 72-hour Detention Application Form.

If a person is placed on a 5150 and taken to an LPS designated facility, someone from that facility must do a face-to-face assessment to determine whether that person will be admitted into the hospital (as described above). If the person is admitted, they will receive the original written advisement. The patient **does not** get a copy of the 5150; it becomes part of the person's medical record.

Who may write a 5150?

- Any professional person approved for designation by the Los Angeles County Department of Mental Health (must have taken DMH County LPS training and passed test).
- A selected member of attending staff at an evaluation facility, which has been designated for involuntary detainment by the Los Angeles County Department of Mental Health.
- Peace Officers, including Sheriffs, State Park Rangers, State University Peace Officers
- Parole or probation officers (may write 5150 **only** on their own clients).

When completing a 72-hour hold application, one should be mindful that it is a legal, rather than a clinical document. Statements made on the form need to be anchored in observable, describable behavior that substantiate a finding of probable cause to believe the person is a danger to self, others, or is gravely disabled because of a mental disorder. In other words, what the person said and did to indicate that he or she met the detention criteria.

The ability to place a person on an involuntary hold in the community is the only situation outside of law enforcement where an individual may take away another individual's civil right to freedom and detain him or her against his or her will. This is a serious responsibility and the decision should never be made lightly.

Who cannot write a 5150?

- Adult Protective Service (APS) Workers
- Conservators (any type)
- Department of Children and Family Service workers (DCFS).

Where are 72- hour holds written to?

- 1) An **LPS designated facility**, private or County
- 2) Any designated facility in **LA County only**.
- 3) Medical units in an LPS designated facility only

***Special Note:** The law (WIC 5170) provides for involuntary detention of inebriates (chronic alcoholics) however there are **no LPS designated hospitals in LA County for inebriation.** Therefore, you cannot detain a person involuntarily in L.A. County for intoxication or chronic drug use only.

Q: Self-Assessment Exercise:

1. What is a 5150/5585?
 - a. A 5150/5585 is an application for involuntary admission
 - b. A 5150/5585 is an admission to a psychiatric hospital
 - c. A 5150/5585 is authority for an ambulance to transport a patient to the hospital
 - d. Used in a medical emergency room to insure the patient stays
2. Who may write a 5150/5585?
 - a. Anyone designated by the LA County Department of Mental Health
 - b. Peace Officers; including Sheriffs, State Park Rangers, State University Peace Officers
 - c. Parole or probation officers (only on their own clients) may write a 5150
 - d. All of the above
3. True or False: **Involuntary holds may be written to:**
 - T F Any LPS designated facility, private or County
 - T F A hospital out of LA County
 - T F A medical unit in a LPS designated facility
(Most medical units share the same designation)
 - T F A facility that treats individuals for chronic alcoholism
4. When persons are taken into custody on a 72-hour hold, they must be told (WIC 5157):
 - a. The name, position, and agency of the person initiating the custody;
 - b. The name of the facility where they will be evaluated;
 - c. That they are not under criminal arrest, but are being detained for evaluation by mental health professionals
 - d. That they will be told their rights by the staff at the facility.
 - e. All of the above

A: Self-Assessment Exercise/Feedback:

1. a
2. d
3. a=T, b=F, c=T, d=F
4. e.

Module 3

This module reviews the liability associated with a 72- hour involuntary hold

Learning Objectives:

At the conclusion of this module, the student will be able to:

1. Discuss liability associated with writing a 5150

Overview:

In Los Angeles County, select LPS designated facilities are vested with the authority to go out into the community and bring individuals involuntarily into their place of business.

- Anyone who knowingly or willfully is responsible for detaining a person in violation of the commitment statutes is liable in a civil code action by the detained party (WIC 5259).
- The writer of a 5150 shall **not** be held civilly or criminally liable for any action by a person released before the end of the 72- hours (WIC 5154).
- If the individual assessed meets detention criteria, and probable cause is supported due to accounts of someone other than the designated person (e.g., a friend or family member), the person giving the information may be civilly liable for giving an intentionally false statement (WIC 5150).

The following section is offered as an **example** of the Legislature's thinking on the issue of hospital immunity/liability. It should not be construed as legal advice. All LPS designated staff are encouraged to seek direction from their facility counsel regarding liability issues.

Liability For Acts Of Released Person

Welfare and Institutions Code, Section 5154

(a) Notwithstanding Section 5113¹, if the provisions of Section 5152² have been met, the professional person in charge of the facility providing 72-hour treatment

¹ **Section 5113** -- This section was authored early in the life of the LPS Act to provide hospital and clinician immunity for acts of the released patient. In its original form, it did not require the involvement of the psychiatrist in order for the immunity to be enjoyed. It has since been revised, rather than replaced, to defer to Section 5154, which incorporates Section 5152 procedures for immunity when the release is prior to the expiration of the 72-hour period. Similar provisions provide immunity for acts of patients released at or before the end of other periods of involuntary hospitalization.

and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.³

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article⁴.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article⁵.

² **Section 5152** – The relevant portion of Section 5152 reads as follows:

The person shall be released before 72 hours have elapsed only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. (WIC 5152(a))

³ **Subdivision (a)** -- Describes the conditions of immunity for early release

⁴ **Subdivision (b)** – Describes the conditions of immunity for release at the expiration of the 72-hour period.

⁵ **Subdivision (c)** – Provides immunity for peace officers when the person is released at or before the end of the 72-hour period.

Q: Self-Assessment Exercise:

True or False: What is the liability associated with writing a 5150?

- T F Anyone who knowingly or willfully is responsible for detaining a person in violation of the commitment statutes is liable in a civil code action by the detained party
- T F The writer of a 5150 **shall** be held civilly or criminally liable for any action by a person released before the end of the 72 hours
- T F If you believe that the individual meets the detention criteria based on the accounts of someone other than the designated person (e.g., a friend or family member), that person may be civilly liable for giving an intentionally false statement
- T F A police officer is liable if a patient is released before the hold expires.

A: Self-Assessment Exercise/Feedback:

Answers: a=T, b=F, c=T, d=F

Module 4

This module reviews the circumstances that necessitate placing someone on a 72-hour involuntary hold

Learning Objectives:

At the conclusion of this module the student will be able to:

1. Describe grounds for 72-hour detention on a 5150 (adults) and 5585 (minors).
2. Define terms key to understanding the 5150 hold writing process including probable cause.
3. Know the legal standard for holding someone on a 5150

Overview

Why write a 72-hour hold?

The legislative intent of the LPS Act included providing for prompt evaluation and treatment of persons with serious mental disorders. Assessment for a 5150 is the first step towards obtaining evaluation and treatment for the individual. If it is determined that a person meets the criteria (danger to self, others, or grave disability due to a mental disorder) he or she may then be placed on a 5150. The 5150 allows for legal authority to detain a person involuntarily so the person may be brought to the facility, where a face-to-face assessment must be completed before they can be admitted to the hospital.

The student should note that when a person is being assessed for a 72-hour hold, and it is decided to **not** involuntarily detain the individual, then alternative voluntary services **shall** be offered per WIC 5150.3:

“Whenever any person presented for evaluation at a facility designated under section 5150 is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided for pursuant to Section 5151 shall be offered as determined by the county mental health director.”

Grounds for Detention - Adults, WIC 5150:

When any person, as a result of a mental disorder, is a **danger to others, or to himself or herself, or gravely disabled**, may upon **probable cause**, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation, such facility shall require an application in writing stating the circumstances under which the person’s condition was called to the attention of the (authorized person) has

probable cause to believe that the person is, as a result of a mental disorder, a danger to others, or to himself or herself, or gravely disabled (WIC 5150).

Definition of applicable terms:

Danger to others: This term is not defined by statute or regulation, but can be manifested by words or actions indicating a serious intent to cause bodily harm to another person due to a mental disorder. If the dangerous to others finding is based on the person's threats rather than acts, the evaluator must believe it is likely that the person will carry out the threats.

Danger to self: This term is not defined by statute or regulation, but can be manifested by threats or actions indicating the intent to commit suicide or inflict serious bodily harm on oneself, or actions which place the person in serious physical jeopardy, if these actions are due to a mental disorder.

Gravely Disabled-Adult: A condition in which a person, as a result of a mental disorder (rather than a chosen lifestyle or lack of funds) is unable to provide for his or her basic needs for food, clothing or shelter (WIC 5008).

The threat to harm oneself may be through neglect or inability to care for oneself.

Courts have ruled that if a person can survive safely in freedom with the help of willing and responsible family members, friends or third parties, then he or she is not considered gravely disabled.

Gravely Disabled-Minor: As a result of a mental disorder, a minor (person 17 years old or younger) is unable to utilize the elements of life, which are essential to health, safety and development, including food, clothing, or shelter, even though provided to the minor by others (WIC 5585.25).

Probable Cause: is the legal standard we use to determine whether or not a person meets the criteria for a hold due to a mental disorder. When enacted in 1967, section 5150 of the LPS Act required only "reasonable cause" for detention. This section was amended in 1975 to require "probable cause" for detention. We determine "probable cause" based on the case of People vs. Triplett.

People v. Triplett – Case Set-up

On March 29, 1981, Anita Triplett was leaving her apartment building when she encountered a San Jose police officer. The officer was en route to Anita's apartment in response to a disturbance call. The officer noticed that Anita was unsteady, upset, and appeared to have been crying. The officer also noticed blood on Anita's right hand, and that a series of cuts on Anita's arm appeared to be self-inflicted. The officer suggested that Anita accompany him to the hospital, but she refused. The officer, who felt Anita needed mental health treatment,

grabbed her, handcuffed her and placed her in the rear seat of the patrol car. (Triplett, 537)

After arriving at the hospital, but before taking her into the emergency room, the officer searched Anita's purse for identification and weapons. Instead of weapons, he found illegal narcotics. The officer took Anita into the emergency room for medical care, and then to Elmwood Women's Detention Facility. Anita was charged with drug possession, and convicted. The case of **People v. Triplett** is Anita's appeal of the conviction. She appealed on two grounds: (1) there was no probable cause to take her into custody; and (2) there was no probable cause to search her purse.

The search issue was resolved without a discussion of the technicalities of probable cause. The resolution utilized LPS statutes related to the specific obligations a 5150 initiator has in relationship to the property of the person detained.

An answer to the question of whether or not there was probable cause to take Anita into custody required a definition of "probable cause for civil commitment" to which Anita's case could be compared. Unable to locate such a definition, the court created one for itself.

To constitute probable cause to detain a person pursuant to section 5150, a state of facts must be known (to the police officer, or authorized person) that would **lead a person of ordinary care and prudence to believe or entertain a strong suspicion that the person detained is mentally disordered and is a danger to himself or to others or is gravely disabled.**

Determining probable cause is a lay decision, not a clinical one, and does not require a diagnosis.

Medical Treatment: Involuntary detentions under LPS may **not** be used to authorize non-psychiatric medical treatment. In certain cases involving conservatees, specific authorization may be obtained from the court. If the person's condition will become life threatening or pose a serious threat to his or her health, and the person is unable to give an informed consent, the court may be petitioned for medical authorization (Probate Code 3200-3211).

Other Definitions:

Mental Disorder: The criteria must be linked to a mental disorder. *Mental disorder* is **not** defined by law, and the initiator is not required to make a medical diagnosis of mental disorder. The initiator must be able to articulate behavioral symptoms of mental disorder either temporary or prolonged. (People v. Triplett)

*Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder (WIC 5585.25).

Peace Officer: means a duly sworn peace officer as that term is defined in Chapter 4.5 . . . of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which her or she has a legally mandated responsibility (WIC 5008).

Q: Self-Assessment Exercise:

1. The grounds for 72-hour detentions on a 5150 (adults) and on a 5585 (minors) are (Circle all that apply):
 - a. Danger to Self
 - b. Danger to others
 - c. Gravely disabled
 - d. Medically unstable
2. How is *Mental Disorder* defined in the LPS law?
 - a. A DSM IV diagnosis
 - b. By behavioral symptoms
 - c. Previous diagnosis
 - d. Past hospitalization
3. What is the legal standard for holding someone on a 5150?
 - a. A medical diagnosis
 - b. DSM IV psychiatric condition
 - c. Probable cause
 - d. Refusing medication
4. A minor may be placed on a 5585 for Grave Disability if:
 - a. They are psychotic
 - b. They refuse to eat
 - c. They made a suicide attempt
 - d. They are unable to use the elements of life

A: Self-Assessment Exercise/Feedback:

1. a, b, c
2. b
3. c
4. d

Module 5 (Revised 6-1-09)

This module reviews minors' issues and involuntary detention **Minors – (For additional information on minors, see page 52)**

When any minor, as a result of a mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, an (authorized person) may, upon probable cause, take, or cause to be taken, the minor into custody. . . (WIC 5585.50).

Learning Objectives:

At the conclusion of this module the student will be able to know:

1. What a minor is,
 2. Which criteria is different for minors,
 3. What additional criteria exists for minors, and
 4. What is meant by “authorization for voluntary treatment is not available”
1. For purposes of LPS, a *minor* is anyone under the age of 18 who is not married, or a member of the armed forces, or declared emancipated by a court of law.
 2. Minors have the same legal rights as adults with respect to involuntary holds, and must also meet the same criteria. However, for minors, the definition of gravely disabled has been somewhat modified and the law dictates one additional criterion:

A minor is considered gravely disabled if, as a result of a mental disorder, he or she is “unable to use the elements of life which are essential to health, safety and development, including food, clothing, shelter, even though provided to the minor by others.” (WIC 5585.25)

3. Because they are minors, minors may only be taken into custody under WIC 5585 detention when authorization for voluntary treatment is not available. In this situation, the basis for coming to this conclusion must be indicated on the Application and the applicable box must be checked.

Examples include situations when:

- a The parent, guardian or other person authorized to provide consent for in-patient treatment is not available,
- b The parent, guardian or other person authorized to provide consent for in-patient treatment refuses to authorize voluntary treatment, or

- c The parent, guardian or other person authorized to provide consent for inpatient treatment agrees to authorize voluntary treatment but factors suggest that he or she will not obtain the necessary voluntary treatment
4. Authorization for voluntary treatment refers to authorization for inpatient admission.

Anyone who is empowered to authorize treatment for the minor (e.g. parent/legal guardian) and who is present at the location where the minor is taken into detention (e.g. a family home) should be notified that he or she may authorize any inpatient admission at the LPS designated facility to which the minor will be transported. That authorization takes place if the professional in charge of the LPS designated facility or his/her designee determines that inpatient admission is necessary after he/she completes an evaluation for this purpose.

During the assessment, the evaluator should take into consideration his/her interactions with or observations of the parent/legal guardian regarding the dangerousness or grave disability of the child that may lead him/her to believe that the criteria for 5585 detention do not exist.

Example A:

An 8 y/o girl has told her teacher that she wants to run into traffic. The child's mother appears very concerned and is eager to transport the child to a local hospital for evaluation as soon as you complete your evaluation. After having interacted with the mother, you believe that the child is not a danger to herself as long as her mother is with her, and that the mother will take the child to the hospital which you have contacted to provide an evaluation. Therefore, you do not write a 5585.

Example B:

You were called to evaluate a 16 y/o male who has threatened to kill himself. Although the father said that he would see that his son gets "help," he is vague as to what that help is and does not appear concerned. You, as the evaluator, believe that the minor remains a danger to himself and you write a 5585.

5. Minors 14 or over admitted by their parents to private facilities may request a hearing, known as a clinical review, within ten days of their admission. Unlike the hearings afforded to minors in state or county hospitals, (Roger S) which are presided over by court appointed hearing officers, clinical reviews take place before a psychiatrist appointed by the hospital.

Q: Self-Assessment Exercise:

1. What does the WIC say regarding voluntary treatment and minors?
2. Which criterion is different for minors?
 - a. Danger to self
 - b. Grave disability
 - c. Danger to others
 - d. No different criteria
3. What is the definition of a minor?
 - a. Anyone 17 years old or younger who is not emancipated by a court of law, married, or in the armed forces.
 - b. Anyone 17 years old or younger who is a dependent child
 - d. Anyone 17 years old or younger that is a DCFS ward
 - e. A child who is married
4. You believe that a child cannot be safely transported by his parent to a hospital, but the parent nevertheless wants to attempt that transport and wants the child to be admitted. Should you place the child be placed on a 5585? Yes or No
5. You believe that a parent can and will safely transport a child to an LPS designated facility for assessment and you think that the child must absolutely be assessed for possible inpatient treatment. Should you place the child on a 5585? Yes or No

A: Self-Assessment Exercise Answers:

1. "When any minor, as a result of a mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, an (authorized person) may, upon probable cause, take, or cause to be taken, the minor into custody. . . (WIC 5585.25)
2. b.
3. a.
4. Yes
5. No

Module 6

This module reviews the utilization historical information in regard to placing a person on a 72-hour hold

Learning Objective:

At the conclusion of this module the student will be able to:

- 1) Know when it is appropriate to consider historical information about the person being evaluated for a 5150.

Historical Course (WIC 5150.05)

Overview

The historical course may include, but not be limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, or evidence presented by family members, or any other persons designated by the patient.

Historical information must be considered when it has direct bearing on what is currently happening with the person being assessed:

(a) When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to (WIC) **Section 5150**, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section **shall** consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder.

(b) For purposes of this section, "information about the historical course of the person's mental disorder" includes evidence presented by the person who has provided or is providing mental health or related support services to the person subject to a determination described in subdivision (a), evidence presented by one or more members of the family of that person, and evidence presented by the person subject to a determination described in subdivision (a) or anyone designated by that person.

(c) If the probable cause in subdivision (a) is based on the statement of a person other than the one authorized to take the person into custody pursuant to Section **5150**, a member of the attending staff, or a professional person, the person making the statement shall be liable in a civil action for intentionally giving any statement that he or she knows to be false.

Q: Self-Assessment Exercise

1. When is it appropriate to consider historical information about a person you are evaluating for a 5150?
 - a. Anytime during the assessment
 - a. Never
 - b. When the patient consents
 - c. When the family agrees

A: Self-Assessment Exercise/Feedback:

1. a

Module 7

This module reviews safeguarding personal possessions

Learning objective:

1. At the conclusion of this module, the student will be able to describe what to do with personal possessions when a person is placed on a 5150.

Overview

- The initiator of an application for civil commitment has a duty to safeguard the property belonging to the subject of the application (WIC 5156). Generally speaking, the designee has a duty to safeguard the client's possessions of or on the premises occupied by the person. This means that if a client who is being assessed has pets, the evaluator will let them make arrangements for care, or make arrangements for the pet's care themselves. If the individual being assessed is on the street with a wheelchair or bicycle, it is the evaluator's responsibility to take it to the facility, or find a safe place to store it. The evaluator must ensure that the resident area is secured; windows and doors should be locked.

The statutes immediately following this introduction state the duty to safeguard property in general terms. Below is an excerpt from the case of **People v. Triplett**. The excerpt suggests that the initiator of an application (whether a police officer or other authorized person) also has a right to open and inspect any closed parcels that the subject intends to bring with him to the hospital.

Preservation of personal property:

Welfare and Institutions Code, Section 5156:

At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a **responsible relative** ⁽¹⁾ or the guardian or conservator of the person is in possession of the person's personal property, the person taking him into custody shall take **reasonable precautions** ⁽²⁾ to **preserve and safeguard the personal property in the possession of or on the premises occupied by the person.** ⁽³⁾ The person taking him into custody shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211; except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only the name of the relative or guardian or

conservator and the location of the property, whereupon responsibility of the person taking him into custody for such property shall terminate.

1. **Responsible relative** – Responsible relative is defined by statute. As used in this section, "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the person, except that it does not include the person who applied for the petition under this article. (WIC 5156)
2. **Reasonable precautions** -- There is no formula for the determination of reasonableness. Each case must be decided on its own facts and circumstances.
3. **Preserve and safeguard the personal property in the possession of or on the premises occupied by the person** – The initiator's responsibility extends to property on the premises only when the detention was initiated at or on those premises.

Regarding Searches:

People v. Triplett, 144 Cal. App. 3d 289-

Appellant contends that the warrant less search of her purse in the absence of any emergency violated her constitutional rights.

Under **WIC 5325** (1), a person involuntarily detained for evaluation or treatment has the right to keep and use his or her own personal possessions. The officer properly searched appellant's purse to ensure that she had no razor blades or other sharp instruments with which she could harm herself, perhaps fatally, in another suicide attempt. His action was reasonable and not constitutionally infirm. The officer was complying with the dictates of section **5156**, as described above.

1. **Section 5325** – This section lists a variety of rights afforded persons in inpatient settings. The rights include, but are not limited to, the right to keep and use personal possessions, the right to have visitors, and the right to make and receive confidential phone calls.

Q: Self-Assessment Exercise:

- 1) What is your responsibility in regard to safeguarding personal possessions?
 - a. Make a reasonable effort to insure that the client's property is safe
 - b. Take the property with you
 - c. Allow the client to take pets to the hospital
 - d. Call police

A: Self-Assessment Exercise Feedback:

- 1) a

Module 8

This module reviews the Emergency Room 24-Hour Rule

Learning objective:

1. At the conclusion of this module, be able to describe the emergency room 24-hour rule.

Overview

This section explains the **extension** of the emergency room eight-hour rule for general medical emergency rooms that had been passed in 1997.

LPS Designated facilities within Los Angeles County are expected to provide an assessment for a 5150 within one hour. As per *LPS Designation Guidelines and Process for Facilities Within Los Angeles County, Fourth Edition*: “The facility must have at least one privileged professional staff member with 5150 authority present within one hour for on-site assessment of individuals considered for involuntary detention and/or admission.”

In Los Angeles County, the following rule applies only to non-LPS designated hospitals.

Effective January 1, 2008, SB 916 provides immunity to (non-LPS designated) medical emergency rooms for detaining individuals who present as danger to self, others, or are gravely disabled due to a mental disorder for up to **24 hours** while emergency room staff seek a psychiatric bed for the individual.

SB 916 states that hospitals and staff shall not be civilly or criminally liable for detention up to 24 hours as long as the following are met:

- (1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental disorder, presents a danger to himself or herself, or others, or is gravely disabled.
- (2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.
- (3) The person is not detained beyond 24 hours.

- (4) There is probable cause for the detention.
- (5) If the person is detained beyond eight hours, but less than 24 hours, the following additional conditions shall be met:
 - (a) A transfer for appropriate mental health treatment for the person has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.
 - (b) In the opinion of the treating physician and surgeon, or a clinical psychologist with medical staff privileges or professional responsibilities provided for in Section 1316.5, the person, as a result of a mental disorder, is still a danger to himself or herself, or others, or is gravely disabled.

In addition to the conditions set forth in subdivision (a), a licensed acute psychiatric hospital, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals **shall not be civilly or criminally liable** for the actions of a person detained up to 24 hours in those hospitals who is subject to detention pursuant to Section 5150 of the Welfare and Institutions Code **after that person's release from the detention at the hospital**, if all of the following conditions exist during the detention:

- (1) The person has not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.
- (2) The release from the licensed general acute care hospital or the licensed acute psychiatric hospital is authorized by a physician and surgeon or a clinical psychologist with medical staff privileges or professional responsibilities who determines, based on a face-to-face examination of the person detained, that the person does not present a danger to himself or herself or others and is not gravely disabled. In order for this paragraph to apply to a clinical psychologist, the clinical psychologist shall have a collaborative treatment relationship with the physician and surgeon. The clinical psychologist may authorize the release of the person from the detention, but only after he or she has consulted with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a person subject to the detention, the detention shall be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and surgeon and the clinical psychologist shall enter their findings, concerns, or objections in the person's medical record.
- (c) Nothing in this section shall affect the responsibility of a general acute care hospital or an acute psychiatric hospital to comply with all state laws

and regulations pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients. Persons detained under this section shall retain their legal rights regarding consent for medical treatment.

(d) A person detained under this section shall be credited for the time detained, up to 24 hours, in the event he or she is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

There are no forms or formal applications for this rule. This rule applies only to persons who are detained; voluntary patients are not held against their will, so we do not record any time of detainment.

Q: Self-Assessment Exercise:

- 1) What does the ER 24-Hour Rule mean?
 - a. A nurse may hold a patient in the ER for 24 hours
 - b. A physician or psychologist may hold a patient for 24 hours in a medical ER if they are dangerous to themselves, others, and/or are gravely disabled due to a mental disorder.
 - c. A family member may request that the relative be held
 - d. The patient may request a 24 hour hold

A: Self-Assessment Exercise:

- 1) **b**

Module 9

This module reviews duty to report unsafe conditions.

Learning Objectives:

At the conclusion of this module the student will be able to know:

- 1) What to do if unsafe residential conditions in the field are observed, or if an evaluator is told of unsafe residential conditions in a facility.
- 2) What to do if the evaluator suspects abuse of any kind
- 3) What to do if someone makes a death threat against a specific person (Tarasoff)

Overview

- If an LPS designated individual assesses for a 5150 in the field, and observes a residence that is overcrowded, dirty, has exposed wiring or any other type of unsafe conditions, those conditions must be reported to the Patients' Rights Office, Community Care Licensing, or both.
- Due to many deaths and other abuses that have occurred in client residences within the past five years, the Los Angeles County Board of Supervisors passed a motion that proposed to track dangerous residences and their owners/operators. Over the course of two years, the Chief Administrative Office worked with eleven county agencies (Health Services, Fire, Sheriff, Department of Mental Health, Probation, Public Works, Regional Planning, Adult Protective Services (APS), Community Care Licensing, District Attorney, Treasurer and Tax Collector, etc.) to put a Memorandum of Understanding (MOU) in place stating that if any of these agencies identify an unsafe residence, they will contact APS first, then let the other agencies know.
- As a mandated reporter, the LPS designated individual must report any suspected abuse to the appropriate agency-- Department of Children and Family Services (DCFS) or APS.
- If someone threatens to harm an identified person in the designated individual's presence, the designated person must notify the person threatened (Tarasoff), and must call the police department to report the threat. Consult your agency policy and procedure for specific Tarasoff-related guidelines.

Q: Self-Assessment Exercise:

1. What do you do if you observe unsafe residential conditions in the field or hear about problem conditions?
 - a. Report the residence to Patients' Rights Office, Community Care Licensing, or both.
 - b. Call the police
 - c. Speak to your supervisor
 - d. Call Adult Protective Services

2. What do you do if you suspect abuse of any kind (circle all that apply)?
 - a. Call DCFS
 - b. Call APS
 - c. Call police
 - d. Call DMH

3. What do you do if someone makes a death threat against a specific person? (Tarasoff)
 - a. Call police
 - b. Call the individual threatened
 - c. Call the police and intended victim (both a and b)
 - d. Notify the District Attorney

A: Self-Assessment Exercise/Feedback:

1. a
2. a and b
3. c

Module 10

This module reviews how to complete a valid 5150/5585

Learning objective:

1. By the end of this module, students will be able to complete and demonstrate the ability to write a valid 5150/5585 “hold” including the following:
 - a. Behavioral description of client’s actions that meet criteria for a “hold.”
 - b. Completing supportive/informational material on the “hold” to ensure proper documentation
 - c. To accurately date and time the “hold” to ensure patient’s rights including “holds” written in medical emergency rooms.
2. Students will follow the numbers listed on the 5150 exemplar while learning to complete the 5150.

Overview:

While reviewing this module, please refer to 5150 form on page 38

Numbers 1-6: *Detainment Advisement* (See Appendix A for form)

- The purpose of the detainment advisement is to inform the mentally ill individual that they have rights, are not under arrest and may take approved possessions with them to the hospital.
- Print your name on this line (1).
- The Advisement (located in the upper right hand corner of the form) should be read to clients. “Advisement complete” or “Advisement incomplete” should be circled (2).
- If a patient is too ill to comprehend the verbal advisement, then do not read the Advisement, circle “Advisement incomplete” and document the reason in number (3).
- If the Advisement is successfully read to the client, print your name in the section labeled “Advisement Completed By,” (4) print your position: psychologist, social worker, psychiatrist, MFT, psychiatric technician (5), and note the date (6).
- The patient will receive a written advisement if, after being appropriately assessed at the hospital, he/she is admitted.

Self Examination Exercise for Module 10, Section 1:

True or False:

1. T F The Advisement must be read to all patients on a hold, no matter what.
2. T F Good cause for not reading the Advisement is: "Did not have the time."
3. T F The Advisement informs the client they are not under arrest.
4. T F In the Position section you may write "Licensed Clinician."

Answers: 1 = F, 2 = F, 3 = T, 4 = F

Number 7-10: Application is Made To:

- The name, address and phone number of the hospital or emergency room where the client will be transported is documented on this line (7).
- Be as specific as possible in order to inform the ambulance driver or other applicable parties of the exact location of the receiving facility.
- When indicating the name of the patient in the “Admission of” section (8), use the patient’s complete name. Complete names are helpful in order to increase the likelihood the receiving facility can correctly identify the patient.
- Completing the “Residing at” section (9) is critical. The address should be complete with zip code and phone number, if possible. Again, the receiving faculty may have only the 5150 form as identifying information, so the more complete the personal data, the better.
- The section **below** “Residing at” (10) is critical for the completion of the 5150/5585. You should put **all** the contact information available to you in this section. Neighbor’s names and phone numbers, parents, friends, case managers, conservator, landlord, treating clinician and so on. Hospital discharge planning often depends on the accuracy of this information.
- Circle the “Section 5150” or “Section 5585” to indicate which type of hold you are writing on the line below (9).

Self Examination Exercise for Numbers 7-10

Complete the following multiple-choice questions:

1. Why is it important to put the name and address of the destination hospital in the "Made to" section?
 - a. So the patients know where they are going.
 - b. Gives the clinician who wrote the hold good information.
 - c. In case the ambulance drivers get lost or need directions.
 - d. Provides destination information for any family who may be present.

2. Providing complete information in this section is important because:
 - a. The ambulance drivers need it.
 - b. This information may be the only identifying information the hospital has regarding the patient.
 - c. Informants listed in this section can be useful in the discharge planning process.
 - d. All of the above.

3. Circling which type of hold you are writing helps:
 - a. The patient know what hold they are on.
 - b. Identify whether the client is a minor or an adult
 - c. The ambulance drivers
 - d. The family

Answers: 1 = c, 2 = d, 3 = b

Number 11: . . . Person's Condition was called to my Attention

- This section (11) identifies how the client came to your attention.
- This information should be as complete as possible; it should include who initially contacted you, a short description of why the caller wanted assistance and what the client was doing to require an emergency assessment (initial complaint).
- All descriptions are to be behavioral and **not** diagnostic.
- Some examples of behavioral descriptions are:
 - “Called by LAPD to access a client that was running naked in the street,”
 - “Call from patient’s mother saying consumer was suicidal,”
 - “Called by school principal to assess student who expressed suicidal thoughts to school counselor,”
 - “Called by roommate because person threatened a neighbor,”
 - “Called by therapist at County mental health clinic that client known to them just called saying he was going to kill himself.”
- In this section, **do not** put diagnostic description like “Patient is well known bi-polar disorder,” or “Patient suffering from major depression and . . .”, or “Patient paranoid schizophrenic who is threatening people in the street.”
- In this section **do not** put psychiatric jargon. For example: “Patient hallucinating and delusional,” “Patient having ideas of reference,” “Patient in manic state,” “Consumer psychotic.”

Self Examination Exercise for Number 11

A. List the three descriptors that should be in the "Attention" section of the 5150:

1.

2.

3.

B. List three things that should NOT be in this section:

1.

2.

3.

Answers/Feedback:

A.

1. Who called
2. Why they called
3. Brief description of client behavior (Initial complaint)

B.

1. Diagnosis
2. Symptom picture
3. Jargon like "Psychotic"

Number 12: “The following information has been established ...”

- This section (12) is the “heart” of the 5150/5585. The descriptions of the behaviors (not psychiatric diagnosis) that lead you to believe this patient can be held based on the three criteria (Danger to Self, Danger to Others or Gravely Disabled) is written in this section.
- Behavioral descriptions mean writing what the patient DOES and SAYS, not what clinical term encompasses that behavior. Examples are:
 - “Patient pacing about the room yelling” instead of “Patient anxious & agitated.”
 - “Patient hearing voices that say ...” rather than “Patient having auditory hallucinations.”
 - “Consumer tells me that the TV is speaking to him about things,” rather than, “Consumer experiencing thought insertion.”
 - “Patient seeing CIA agents about to attack him,” instead of “Patient experiencing visual hallucinations.”
 - “Patient feels he is married to Jennifer Lopez,” rather than “Patient delusional.”
 - “Patient says that he is sure someone is watching him from the vents in his apartment,” rather than “Patient paranoid schizophrenic with fixed delusional disorder.”
 - “Patient says she is going to kill herself by overdose because her boyfriend left her,” rather than “Patient has suicidal ideation and intent after failed romance.”
- Quotes from the patient are highly desirable.
- Behavioral descriptions from reliable sources are often very helpful. Be sure to identify the source. It is not necessary to document name of someone who wishes to remain anonymous who is concerned about retaliation (neighbor’s full name, etc.).
- Write enough to justify your decision to “hold” the patient.
- Do not write confidential and/or sensitive medical information in the narrative, such as “Patient has AIDS.” The following is better: “patient has terminal/life threatening illness.”
- Do not list medications in the body of the 5150 (11, 12). If you must report medications, list them in section (10).
- Do not diagnose the patient.
- Do not predict future actions, just describe what you see and hear.

- Keep in mind that a “hold” is meant to be written by a non-clinical person and is NOT a diagnostic assessment.

Learning exercise for Number 12:

Circle the descriptors that should appear in a valid 5150/5585:

1. “Patient carries a diagnosis of bi-polar disorder and is on Lithium.”
2. “Patient said, ‘The voices are telling me to hang myself.’”
3. “Consumer has a fixed delusion that someone is trying to take her house from her.
4. “Patient psychotic.”
5. “Consumer says that he will kill his landlord if he does not stop putting evil thoughts into his head.”
6. Consumer feels she is Cindy Crawford and refuses to eat or drink for two weeks so she can lose weight for an audition.”
7. “Patient has suicidal ideation and intent.”
8. “Child says that she will kill herself if she does not transfer schools.”
9. Consumer is agitated, confused, has variable level of consciousness and is disorientated.”
10. “Patient ran into the street and tried to smash car windows with a board yelling ‘Demon cars.’”

Answers/Feedback: 2, 5, 6, 8, and 10

Numbers 13, 14 15, 16, 17: Criteria, Signatures, Timing and Medical ER Timing:

The following information refers to the final parts of the 5150/5585:

- Check the box that correctly defines the criteria for the hold (13). OK to check more than one box.
- Sign the hold (15) and include your degree (LCSW, MD, Ph.D., LPT, MFT).
- Date (16) and time the hold (**very important**). This protects the patient's rights and notifies the hospital when the patient should be evaluated for release.
- Write the name of your agency and the correct phone number.
- Write the address of your agency
- When you see a consumer in a MEDICAL EMERGENCY ROOM (17), you need to indicate the date and time the CONSUMER ASKED TO LEAVE THE FACILITY (if you know this information). If the consumer did not ask to leave or there is no verification of patient's desire to leave, do not fill in this data.
- The facility must notify a requesting peace officer or designee when a patient brought in for 72-hour detention is released anytime before or at the expiration of an involuntary detention only if **all** of the following conditions are met: (WIC 5152.1, 5250.1)
 - a) The peace officer has initiated the 72-hour hold by completing the application;
 - b) The peace officer requests such notification at the time the application is made (checks the appropriate box);
 - c) The peace officer certifies in writing at the time the 72-hour application is made that the person has been referred to the facility under circumstances which would support the filing of a criminal complaint;
 - d) The notice given to the peace officer is limited to the person's name, address, date of admission for 72-hour evaluation and date of release.

Learning exercise for Number 13-16

True or False:

1. T F You should only check one criterion for a hold.
2. T F When in a medical ER, always fill in the “time detention began” box.
3. T F Always date a hold at the time you write it.
4. T F Always check the “notify police” section on the hold.
5. When is it necessary to notify a police officer of a detainee’s discharge?
 - a. When police request notification at the time 5150 is completed
 - b. When there is a warrant of the patient
 - c. When the patient has a criminal record
 - d. When a crime has been committed at the time of the hold

Answers/Feedback: 1 = F, 2 = F, 3 = T, 4 = F, 5=a

APPLICATION FOR 72-HOUR DETENTION FOR EVALUATION AND TREATMENT

DETAINMENT ADVISEMENT

Confidential Client / Patient Information

See California Welfare and Institutions Code (W & I) Code, Section 5328

W & I Code, Section 5157, requires that each person when first detained for psychiatric evaluation be given certain specific information orally, and a record be kept of the advisement by the evaluating facility.

My name is _____
I am a (Peace Officer, etc.) with (Name of Agency). You are not under criminal arrest, but I am taking you for examination by mental health professionals at (Name of Facility).

You will be told your rights by the mental health staff.

Advisement Complete **Advisement Incomplete**

NOTE: If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

Good Cause For Incomplete Advisement

Advisement Completed By:

Position

Date

Application is hereby made to _____ for the admission of _____ residing at _____, California, for 72-hour treatment and evaluation pursuant to Section 5150 et seq. (adult), or Section 5585 et seq. (minor), of the **W & I Code**. If a minor, to the best of my knowledge, the legally responsible party appears to be/is: (Circle one) Parent; Legal Guardian; Juvenile Court as a **W & I Code, Section 601/ 302**; Conservator. If, available provide names, addresses and telephone numbers, as well as for the Conservator of an adult:

The above person's condition was called to my attention under the following circumstances:

The following information has been established: (Please give sufficiently detailed information to support the belief that the person for whom the evaluation and treatment is sought is in fact a danger to others, a danger to himself/herself and/or gravely disabled. For minors detained under **W & I Code, Section 5585**, please also provide the basis for concluding that authorization for voluntary treatment is not available.

Based upon the above information it appears that there is probable cause to believe that said person is, as a result of mental disorder:

A danger to himself / herself **A danger to others** **Gravely disabled adult** **Gravely disabled minor**

Minors only: Based upon the above information, it appears that there is probable cause to believe that authorization for voluntary treatment is not available.

Peace Officer/Member of Attending Staff of Evaluation Facility/Person Designated by County Signature	Title	Badge #	Date: Time:
Name of Law Enforcement Agency or Evaluation Facility/Person:		Phone:	For patients in medical ER's, detention began: Date: Time:
Address of Law Enforcement Agency or Evaluation Facility/Person:			

Weapon was confiscated and detained person notified of procedure for return of weapon pursuant to W & I Code Section 8102. (officer/unit & phone #) _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

NOTIFICATION OF PERSON'S RELEASE FROM AN EVALUATION AND TREATMENT FACILITY IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

Person has been referred under circumstances in which criminal charges might be filed pursuant to W & I Code Section 5152.1 and 5152.2.

Notify (officer/unit & phone #) _____

Weapon was confiscated pursuant to W & I Code Section 8102.

Notify (officer/unit & phone #) _____

Part Two

MECHANICS OF INVOLUNTARY DETENTION

California Mental Health Services Act: Lanterman-Petris-Short Welfare And Institutions Code, Section 5100:

A. Section 5150- Seventy-two hour hold

- All persons admitted to a facility on a 72-hour hold must receive an evaluation as soon after they are admitted as possible and must receive whatever treatment and care their condition requires for the full period that they are held (if they agree to treatment). "Evaluation" consists of multidisciplinary professional analysis of medical, psychological, educational, social, financial, and legal conditions that appear to constitute a problem.
- Once admitted to a facility on a 72-hour hold, the patient must be given the following information orally and in writing in an accessible language or modality.
 1. The detention criteria the patient is believed to meet.
 2. The facts upon which the allegations of the dangerousness or gravely disabled condition are based.
 3. The length of time the person will be held.
 4. Notification of the right to a hearing before a court officer if the detention lasts longer than 72 hours.
- Persons detained on a 72-hour hold who are receiving medication as a result of their mental illness must be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication by the staff of the designated facility. The fact that this information has been given or the reason why it has not been provided must be indicated in the patient's chart (§5152).
- Upon admission of any mental patient to a 24-hour care facility, whether voluntary or involuntary, the facility must make reasonable attempts to notify the patient's next of kin or other person designated by the patient and inform them of the patient's admission, unless the patient requests that this information not be provided.
- The facility must notify a requesting peace officer or designee when a patient brought in for 72-hour detention is released anytime before or at the expiration of the 72-hour or subsequent hold only if all of the following conditions are met: (§5152.1, 5250.1)

1. The peace officer has initiated the 72-hour hold by completing the application;
 2. The peace officer requests such notification at the time the application is made;
 3. The peace officer certifies in writing at the time the 72-hour application is made that the person has been referred to the facility under circumstances which would support the filing of a criminal complaint;
 4. The notice given to the peace officer is limited to the person's name, address, date of admission for 72-hour evaluation/treatment, and date of release.
- A facility may hold a patient on 72-hour detention for not more than 72 consecutive hours.
 - After involuntary detention has begun, the total period of detention, including intervening periods of voluntary treatment, shall not exceed the total maximum period the person could have been detained had he or she been held continuously on an involuntary basis from the time of initial detention.
 - Time a person was detained in an acute care hospital (up to eight hours) prior to being placed on a 72-hour hold must be credited toward the 72-hour period.
 - A patient admitted to the facility on a 72-hour hold may be released prior to its expiration only if the treating psychiatrist believes further treatment is not required. If another professional person believes the patient should be released but the psychiatrist objects, the medical director must make the decision. (§5152)
 - At the expiration of the 72-hour hold, the patient must either be:
 1. released; or
 2. Referred for further care and treatment on a voluntary basis; or
 - or
 3. Certified for 14 days of intensive treatment; or
 4. Placed on a temporary conservatorship; or
 5. Placed on a full LPS conservatorship.

B. Section 5250- Fourteen Day Certification

- If a patient has been held on a 72-hour detention, he or she may be additionally held for 14 days of intensive treatment only if all of the following apply:

1. The professional staff of the designated facility has found that the patient meets the criteria of being dangerous to others, self, and/ or gravely disabled due to a mental disorder; and
 2. The facility providing the intensive treatment is designated by the county and agrees to admit the patient; and
 3. The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis. (§5250)
- The Notice of Certification must be signed by two people:
 - (a) The professional person in charge of the facility, or a physician or licensed psychologist (with five years post-graduate experience) who has been designated by the professional person in charge.
 - (b) A physician (a board-certified psychiatrist if possible) or a licensed psychologist (with five years postgraduate mental health experience) who has participated in the evaluation. If the physician or psychologist designee in the above (a) is the person who performed the medical evaluation, then the second signatory may be another physician or psychologist or, if one is not available, a social worker or registered nurse who participated in the evaluation. (§5251)
 - A copy of the certification must be given to the person certified and to anyone else the person designates, and to the person's attorney or advocate representing the person at the "probable cause" hearing. (§5253)
 - The person certified must be informed that he or she has a right to a certification review and to a judicial hearing and to the assistance of a patients' rights advocate or attorney. (§5254)
 - Nothing in the law prohibits the patient from being allowed out on a pass provided the professional person in charge of the facility or designee allows it. (§5259)
 - The patient may not be further detained on an involuntary basis once he or she no longer meets the involuntary detention criteria. (§5257)
 - If a patient's family or conservator expresses a preference for a particular designated treatment facility, the person initiating the certification shall try, if administratively possible, to comply with that preference. (§5259.4)
 - At the conclusion of the 14-day period, a patient must be either:
 1. Released; or
 2. Referred for further care and treatment on a voluntary basis; or
 3. Placed on an additional 14-day detention for suicidal persons; or

- 4. Placed on 180-day detention for demonstrably dangerous persons;
or
 - 5. Placed on 30-day intensive treatment for grave disability; or
 - 6. Placed on temporary LPS conservatorship. (§5257)
- The law permits a patient to obtain civil damages from any person who knowingly and willfully detains them in violation of these provisions. (§5259.1)

C. Section 5260-Second Fourteen Day Certification - Additional Treatment of Suicidal Persons

- At the expiration of the 14-day certification, a patient may be detained for a maximum of 14 additional calendar days only if all of the following apply:
 1. The patient, as a result of a mental disorder, either threatened or attempted to commit suicide during the 72-hour or 14-day certification period or was detained originally for that reason.
 2. The patient continues to present an imminent threat of suicide as determined by the professional staff of the designated facility.
 3. The facility providing additional intensive treatment is equipped and staffed to provide treatment, and is designated by the county, and agrees to admit the person.
 4. The person has been advised of, but has not accepted voluntary treatment. (§5260)
- All of the provisions for the initial 14-day certification must be followed (see subsection B above), except that a certification review hearing is not required. (§5260-5268) The patient may request a writ. (§5275)
- Any person who knowingly and willfully detains a patient beyond the legal time limits is liable for civil damages. (§5265)

D. Section 5270 - Thirty Day Certification - Additional Intensive Treatment For Grave Disability

- Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment under both of the following conditions:
 - (a) The professional staff of the agency or facility treating the person has found that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism.

(b) The person remains unwilling or unable to accept treatment voluntarily.

- Any person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256 unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275).
- The professional staff of the agency or facility providing intensive treatment shall analyze the person's condition at intervals of not to exceed 10 days, to determine whether the person continues to meet the criteria established for certification under this section, and shall daily monitor the person's treatment plan and progress. Termination of this certification prior to the 30th day shall be made pursuant to Section **5270.35**.
- For a person to be certified under this article, a second notice of certification shall be signed by the professional person in charge of the facility providing intensive treatment to the person and by either a physician who shall, if possible, be a board-qualified psychiatrist, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section **5270.15**. If the professional person in charge is the physician who performed the medical evaluation and finding, or a psychologist, the second person to sign may be another physician or psychologist, unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation and finding shall sign the notice of certification.
- A second notice of certification is required for all involuntary intensive treatment, pursuant to this article, and shall be in substantially the form indicated in Section 5252. (**5270.25**)
- Copies of the second notice of certification as set forth in Section **5270.25** shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, and to the facility providing intensive treatment. (**5270.30**)
- The person certified shall also be asked to designate any individual who is to be sent a copy of the certification notice. If the person certified is incapable of making the designation at the time of certification, that person shall be given another opportunity to designate when able to do so.

- A certification pursuant to this article (**5270**) shall be for no more than 30 days of intensive treatment, and shall terminate only as soon as the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for the certification, or is prepared to voluntarily accept treatment on a referral basis or to remain on a voluntary basis in the facility providing intensive treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and the psychologist, either the psychiatrist or psychologist may authorize the release of the person but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 30 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 30 days have elapsed only if the psychiatrist believes, as a result of the psychiatrist's personal observations, that the person no longer meets the criteria for certification, or is prepared to voluntarily accept treatment on referral or to remain on a voluntary basis in the facility providing intensive treatment. (**5270.35**.)

- Any person who has been certified for 30 days of intensive treatment under this article, shall be released at the end of 30 days unless one or more of the following is applicable:
 - (1) The patient agrees to receive further treatment on a voluntary basis.
 - (2) The patient is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).
 - (3) The patient is the subject of a petition for post certification treatment of a dangerous person filed pursuant to Article 6 (commencing with Section 5300).

- Any individual who is knowingly and willfully responsible for detaining a person for more than 30 days in violation of the provisions of Section **5270.35** is liable to that person in civil damages.
- Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the 14-day period of intensive treatment and prior to proceeding with an additional 30-day certification, the professional person in charge of the facility shall cause an evaluation to be made, based on the patient's current condition and past history, as to whether it appears that the person, even after up to 30 days of additional treatment, is likely to qualify for appointment of a conservator. If the appointment of a conservator appears likely, the conservatorship referral shall be made during the 14-day period of intensive treatment.
- If it appears that with up to 30 days additional treatment a person is likely to reconstitute sufficiently to obviate the need for appointment of a conservator, then the person may be certified for the additional 30 days.
- Where no conservatorship referral has been made during the 14-day period and where during the 30-day certification it appears that the person is likely to require the appointment of a conservator, then the conservatorship referral shall be made to allow sufficient time for conservatorship investigation and other related procedures. If a temporary conservatorship is obtained, it shall run concurrently with and not consecutively to the 30-day certification period. The conservatorship hearing shall be held by the 30th day of the certification period.
- The maximum involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250 and **5270.15** shall be limited to 47 days. Nothing in this section shall prevent a person from exercising his or her right to a hearing as stated in Sections 5275 and 5353.

E. Additional 180-Day Detention for Dangerous Persons Section 5300

- At the expiration of the 14-day period of intensive treatment, a person may be detained for up to 180 days of additional treatment if the person, because of a mental disorder, presents a demonstrated danger of substantial physical harm to others and has:
 - Attempted, inflicted, or made a serious threat of harm to another after having been taken into custody for evaluation or treatment; or
 - Been taken into custody because of having attempted or inflicted harm to another; or
 - Made a serious threat of substantial physical harm to another within seven days of being taken into custody. (§5300)

- A person's behavior in the past six years may be considered when determining his or her current mental condition and demonstrated danger. (§5300.5)
- Neither conviction of a crime nor amenability to treatment is a necessary prerequisite to establishing a 180-day post certification.
- The petition must be filed during the person's 14-day certification period by the County District Attorney (unless the county board of supervisors delegates the responsibility to the County Counsel) or the person must be released. (§5301, 5114; *People v. Superior Court*, 200 Cal. App. 3d 1546, 248 Cal. Rptr. 23 1988)

Part Three

Conservatorships

I. General

- “Conservatorship” is a court created arrangement that gives one person (conservator) authority to make specific kinds of decisions on behalf of another person (conservatee).
- Statutes governing conservatorships are found in Division 4 of the Probate Code and Division 5 of the Welfare and Institutions Code.
- Conservatorships are tailored, within statutory parameters, to meet the needs of individual conservatees, but it is possible to speak in terms of general categories of conservatorship.

II. Categories:

LPS Conservatorship: For involuntary mental health treatment.

The purpose of conservatorship, as provided for in this article, is to provide individualized treatment, supervision, and placement. (WIC 5350)

When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his care is gravely disabled as a result of mental disorder and is unwilling to accept, or incapable of accepting treatment voluntarily, he may recommend conservatorship to the officer providing conservatorship investigation of the county of residence of the person prior to his admission as a patient in such facility.

The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment may recommend conservatorship for a person without the person being an inpatient in such facility, if both of the following conditions are met: (a) the professional person or another professional person designated by him has examined and evaluated the person and determined that he is gravely disabled; (b) the professional person or another professional person designated by him has determined that future examination on an inpatient basis is not necessary for a determination that the person is gravely disabled.

If the officer providing conservatorship investigation (Public Guardian) concurs with the recommendation, he shall petition the superior court in the county of residence of the patient to establish conservatorship.

LPS-Conservatorship is initiated by petition. Only “professional persons” (i.e., licensed mental health professionals; but local court rules may require the petitioner to be a psychiatrist or psychologist) may petition for the creation of an LPS-conservatorship. In the petition, the “professional person” (Section 5352) asserts that she has evaluated the subject and believes he is gravely disabled due to a mental disorder. Petitions may be initiated for person’s who are not receiving acute psychiatric inpatient care.

- An LPS-conservatorship is time limited. It automatically expires one year from the date of creation.
- The LPS-conservatee has the right to return to court during the twelve-month period to contest the fact of the conservatorship, the powers given to the conservator, and other details of the arrangement.
- The creation of an LPS-conservatorship requires a court or jury finding that the proposed conservatee is “beyond a reasonable doubt” gravely disabled due to a mental disorder.
- The purpose of the LPS-conservatorship is to “ameliorate the conservatee’s grave disability.”
- In Los Angeles County, the LPS-conservator’s powers (authority) are tailored to meet the needs of the individual conservatee. For example, the conservator may have power to manage the conservatee’s finances, and/or consent to medical treatment on the conservatee’s behalf, and/or secure the conservatee’s place of residence. Because the LPS-conservatorship is designed to promote mental health treatment, the LPS conservator’s set of powers will typically include at least one of the following three powers related to mental health treatment:

Power 6 grants the LPS-conservator the power to apply for the conservatee’s admission to Skilled Nursing Facilities, and similarly licensed settings.

Power 7 grants the LPS-conservator the power to apply for the conservatee’s admission to acute inpatient psychiatric care.

Power 8a grants the LPS-conservator the power to require the conservatee to receive psychiatric medication.

Temporary Conservatorship (T-Con):

Where temporary conservatorship is indicated, the fact shall be alternatively pleaded in the petition. The officer providing conservatorship investigation or

other county officer or employee designated by the county shall act as the temporary conservator (Temporary conservator is always the public guardian).

5352.1. The court may establish a temporary conservatorship for a period not to exceed 30 days and appoint a temporary conservator on the basis of the comprehensive report of the officer providing conservatorship investigation filed pursuant to Section 5354, or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for his recommendation, if the court is satisfied that such comprehensive report or affidavit show the necessity for a temporary conservatorship.

Except as provided in this section, all temporary conservatorships shall expire automatically at the conclusion of 30 days, unless prior to that date the court shall conduct a hearing on the issue of whether or not the proposed conservatee is gravely disabled as defined in subdivision (h) of Section 5008.

If the proposed conservatee demands a court or jury trial on the issue whether he is gravely disabled, the court may extend the temporary conservatorship until the date of the disposition of the issue by the court or jury trial, provided that such extension shall in no event exceed a period of six months.

Probate: For age related disabilities - (Probate Code, Section 1800, et seq)

The creation of a probate conservatorship requires a court finding that there is “clear and convincing evidence” that the proposed conservatee lacks the mental capacity to do one or both of the following:

1. Provide for his personal needs for physical health, food, clothing or shelter
2. Manage his own financial resources or resist fraud or undue influence.

Process:

- Probate conservatorship is initiated by petition. Probate Code, Section 1820 lists persons authorized to file petitions. Generally, any adult (there are exceptions that are not relevant here) may petition to have a probate conservator appointed for himself or for another person.
- A probate conservatorship continues until terminated by the death of the conservatee or by order of the court. The process for termination by court order begins with a petition.

- The court may revise the conservatee’s disabilities and/or the conservator’s powers to accommodate changes in life circumstances. The process for making revision begins with a petition.

Probate Conservatorship with Dementia Powers:

This is not a new conservatorship, but is a traditional probate conservatorship with additional powers.

- Used to avoid abuse of psychotropic medications and locked placements for dementia placements; provides vehicle by which “unique and special needs” of dementia patients can be met while preserving their basic dignity rights.
- Allows conservator to place conservatee in a (a) secured perimeter residential care facility for the elderly operated pursuant to Health and Safety Code § 1569.698; or (b) a locked and secured nursing facility which specializes in the care and treatment of people with dementia pursuant to Health and Safety Code § 1569.691, and which has a care plan that meets the requirements of California Code of Regulations Title 22 § 87724.
- Allows conservator to authorize the administration of medications appropriate for the care and treatment of dementia.

Limited Conservatorship –For Developmentally Disabled.

Requires Regional Center assessment.

- Developmentally disabled includes mental retardation, cerebral palsy, epilepsy, and autism.
- Disability must originate before age 18.

Guardianship- For unmarried minors or for managing estate of married minors.

- Terminates when minor turns 18

Part Four

Minors

Voluntary Admission to Acute Inpatient Psychiatric Care

The statute clearly states a preference for the use of voluntary admission over involuntary admission when the patient is a minor. As a consequence of this stated preference, the LPS-designated clinician will be exploring the possibility of voluntary admission for every minor who meets criteria for civil commitment. The following section is designed to assist the clinician in determining when authorization is “not available.”

As a rule, a minor’s voluntary admission to acute inpatient psychiatric care can only be executed by his parent, guardian, LPS-conservator or other person entitled to the minor’s custody. The LPS-designated clinician should be able to identify:

1. Which persons are authorized by law to make application for voluntary admission on a minor’s behalf, and
2. The legal impediments to successfully completing a minor’s voluntary admission. The following sections define terms used to describe persons who may apply on the minor’s behalf, present the special consideration given to minors 14 to 17 years of age, and describe the unique situation of minor wards and dependents in relation to voluntary admission.

Guardians and “other persons entitled to the minor’s custody”

Statutes authorize parents, guardians and other persons entitled to the minor’s custody to make voluntary application to acute inpatient psychiatric care on the minor’s behalf. The LPS-designated clinician should know the following about guardians and other persons entitled to the minor’s custody.

- The guardian referred to in the statutes that control the voluntary admission of minors is a court appointed decision maker. A person claiming to be a guardian should have documentation to support that claim.
- Other persons entitled to the minor’s custody are persons given custody of the minor by the court. Persons claiming custody should have documentation to support that claim.
- A third type of person who might make application for a minor’s voluntary admission to acute inpatient psychiatric care is a “relative caregiver.” This person

does not have formal custody of the minor, but may make decisions on the minor's behalf. The "relative caregiver" is also not a guardian, but her decision making power is akin to the powers vested in a guardian. This person is not granted power through a court proceeding. Instead, she generates her own authorization to make mental health decisions by filling out an affidavit.

A caregiver who is a relative and who completes items 1-8 of the affidavit provided in Section 6552 and signs the affidavit shall have the same rights to authorize medical care and dental care for the minor that are given to guardians under Section 2353 of the Probate Code. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of Section 2356 of the Probate Code. (Family Code 6550(a))

The affidavit includes the following affirmations:

I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

Persons claiming to be relative caregivers should be asked to produce this affidavit to support their claim.

Aged 14 to 17 to a "Private" Psychiatric Inpatient Facility

• A set of statutes effecting the voluntary admission of minors 14 to 17 years of age to *private* acute inpatient psychiatric care is found in Welfare and Institutions Code, Section 6002.10 et seq. The goal of this set of statutes is two-fold: (1) to ensure that the parent/guardian authorizing the minor's admission is notified of the receiving facility's treatment philosophy, and (2) to provide an independent mechanism for investigating the legitimacy of the minor's admission. The notice to the parent/guardian is automatic at the time of admission. The statutes that describe this notice have not been included in this manual. The independent investigation for determining the legitimacy of the minor's admission (a.k.a., independent clinical review) is not conducted unless the minor requests it. The manual includes statutes that describe the minor who is eligible for an independent clinical review. The manual also provides the statute that describes the point at which the minor is made aware of his right to request the independent clinical review. Notice that the rights granted to the minor by this set of statutes do not prevent the voluntary admission from being completed.

Voluntary Admission Procedures for Minors Meeting Specified Criteria (Private Hospitals)

Welfare and Institutions Code, Section 6002.10

Any facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, to provide inpatient psychiatric treatment, excluding state hospitals, and county hospitals*, shall establish admission procedures for minors who meet the following criteria:

- (a) The minor is 14 years of age and over, and is under 18 years of age**.
- (b) The minor is not legally emancipated***
- (c) The minor is not detained under Sections 5585.50 and 5585.53****
- (d) The minor is not voluntarily committed pursuant to Section 6552 5*****
- (e) The minor has not been declared a dependent of the juvenile court pursuant to Section 300 or a ward of the court pursuant to Section 602. The minor's admitting diagnosis or condition is either of the following:
 - (1) A mental disorder only...
 - (2) A mental disorder and a substance abuse disorder.

*excluding state hospitals, and county hospitals – This group of hospitals follows a procedure for admitting minors 14 to 17 years of age that is based on the CA Supreme Court case In Re Roger S.

**The minor is 14 years of age and over, and is under 18 years of age – The right to contest voluntary admission is not available to minors under 14 years of age.

***emancipated – An emancipated minor is treated as an adult. Minors become emancipated in one of three ways: 1) marriage, 2) military service, or 3) court order of emancipation resulting from the minor's request to be emancipated. Please note that bearing or siring a child does not emancipate a minor. An unmarried minor parent has the authority to make application for voluntary admission to inpatient psychiatric care for her child(ren), but cannot make voluntary application to inpatient psychiatric care for herself.

****The minor is not detained under Sections 5585.50 and 5585.53 – That is to say, the minor is not an involuntary patient.

*****Section 6552 – This Welfare and Institutions Code Section pertains to minor wards and dependents. It describes a court process used by minor wards and dependents who want to be admitted to inpatient or outpatient mental health treatment. Wards and dependents who want to be admitted to hospital have no need for a process to contest that admission.

Independent Clinical Review (Private Hospitals) - Welfare and Institutions Code, Section 6002.15:

Purpose: To contest voluntary admission to inpatient psychiatric treatment.

Applies in: Private psychiatric inpatient facilities

Available to:

- Minors 14 through 17 years of age who are not wards or dependents.

Upon admission*, a facility specified in Section 6002.10 shall do all of the following:

- (1) Inform the minor in writing of the availability of an independent clinical review of his or her further inpatient treatment. The notice shall be witnessed and signed by an appropriate representative of the facility.
- All eligible minors must be advised of option to contest admission.
 - Advisement occurs **during admission process**.

***Upon admission --** The point at which the minor is given the opportunity to request an independent clinical review to contest his admission is significant for the crisis intervention clinician. The fact that the opportunity comes after admission means that the right to contest does not prevent the admission from occurring. (See the following discussion for a situation that does create an impediment to a minor's voluntary admission to inpatient psychiatric care.)

- The minor chooses to contest the admission. [The choice is documented, staff contact all parties involved in the Review, the Review is held within five days.]

Voluntary Admission to Acute Inpatient Psychiatric Care, Minors Aged 14 to 17, to a Public/County Psychiatric Inpatient Facility

- Special considerations regarding the voluntary admission of minors aged 14 to 17 (who are not wards or dependents) to public psychiatric facilities is derived from the 1977 California Supreme Court case, *In Re Roger S* (19 Cal. 3d 921). The considerations or rights granted to minors by *Roger S* are similar, but not identical, to the rights granted to minors admitted to private facilities.
- For the LPS-designated clinician, the important difference between the private and public processes is the fact that *In Re Roger S* requires that the minor be notified of his right to contest the proposed voluntary admission (i.e., admission on the signature of a parent or guardian) before the admission can be completed. If the minor contests the proposed admission, he can not be admitted to the facility on the signature of a parent or guardian; until a court hearing finds that the minor has a mental disorder and requires the proposed inpatient treatment. This court hearing may take several days to materialize.

- **The requirements derived from In Re Roger S clearly create an impediment to voluntary admission.** It is important to remain clear about the fact that the impediment is to voluntary admission, not to involuntary admission. The line between voluntary admission and involuntary admission is easily blurred when the minor is contesting. “Voluntary admission” simply means that the admission is being authorized by the patient or the patient’s agent (conservator, parent, or guardian). The fact that a parent or guardian is authorizing the minor’s admission means that the minor is technically considered a “voluntary patient.” The alternative to voluntary admission is an admission initiated by the State based on evidence that the person is dangerous to self, dangerous to others and/or gravely disabled (involuntary admission).

- The requirements derived from In Re Roger S do not apply to the voluntary admission of minors 14 to 17 years of age who are wards or dependents. (See following section on wards and dependents.)

Roger S. Procedure (County Facilities) – Welfare & Institutions Code, Section 6001.15 et seq.

Purpose: To contest voluntary admission to inpatient psychiatric treatment

Applies in: Public psychiatric inpatient facilities

Available to: Minors 14 through 17 years of age who are not wards or dependents.

Notice of availability:

- All eligible minors must be advised of option to contest admission.
- Advisement occurs **prior to admission.**

Exercise of Rights - Option #1:

In both private and public facilities:

- The minor chooses not to contest the admission. [The choice is documented, and the minor is advised that he may change his mind at any time within the next ten days.]

Effect of Option #1 on the minor’s admission:

- This choice has no practical effect on admission.
- This choice clears the way for the minor’s parent to use the voluntary admission process.

OR

Exercise of Rights – Option #2

- The minor chooses to contest the admission. [The choice is documented, staff initiate contact with the court, the Hearing is held at earliest convenience.]

Effect of Option #2 on the minor's admission:

In private facilities:

- **The choice to contest has no immediate effect on the admission, as the minor has already been admitted.**

In public facilities:

- **The choice to contest stalls the proposed voluntary admission.**

This contesting minor may not be admitted into a public psychiatric hospital using the voluntary admission process unless the Roger S. Hearing upholds the necessity of the minor's admission.

Voluntary Admission to Acute Inpatient Psychiatric Care, Minor Wards and Dependents

- A "ward" is a minor who has come within the jurisdiction of the juvenile court because he has violated a city ordinance, county ordinance or criminal statute; or because he is considered to be beyond the control of his parent, guardian, or other custodian. (For more information on this topic consult **Welfare and Institutions Code**, Section 601 et seq.)
- A "dependent" is a minor who has come within the jurisdiction of the juvenile court because she has suffered abuse by a parent or guardian or is considered to be at significant risk of suffering abuse by a parent or guardian.
- Wards and dependents can enter acute inpatient psychiatric care in one of two ways:
 1. On an application for civil commitment (5585), or
 2. Upon their own request (6552).

The juvenile court may request that the ward or dependent be evaluated for civil commitment, but the court is not authorized to require that the minor be admitted to acute inpatient psychiatric care. Also note the following:

- Probation and parole officers are authorized by statute to initiate applications (5585) for civil commitment of wards under their charge.

- Foster parents do not have authority to make an application for the dependents voluntary admission to inpatient psychiatric care.
- Department of Children and Family Services (DCFS) employees do not have authority to make voluntary application to inpatient psychiatric care on behalf of wards or dependents, and, at present, DCFS clinicians are not authorized by statute or the county to initiate applications for civil commitment.
- Wards and dependents do not need the protections provided by the independent clinical review statutes or the case of In Re Roger S because the ward/dependent is given direct control of the voluntary admission process by Welfare and Institutions Code, Section 6552, which reads, as follows:

A minor who has been declared to be within the jurisdiction of the juvenile court may, with the advice of counsel, make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003. Notwithstanding the provisions of subdivision (b) of Section 6000, Section 6002, or Section 6004, the juvenile court may authorize the minor to make such application if it is satisfied from the evidence before it that the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility or program in which the minor wishes to be placed; and that there is no other available hospital, program, or facility which might better serve the minor's medical needs and best interest. The superintendent or person in charge of any state, county, or other hospital facility or program may then receive the minor as a voluntary patient.

- This potentially slow “6552” process is an impractical method for obtaining admission to acute inpatient psychiatric care, but it is commonly used to gain admission to other types of inpatient/residential mental health treatment.

Part Five

Frequently Asked Questions

The following section presents short answers to questions frequently asked by designated clinicians. Questions and answers are loosely grouped by theme. The order in which the questions are provided is not a reflection of their relevance or an indication of how often the question arises.

5150 Document Q: May I write the 5150 in pencil?

A: There is no statutory instruction on what medium to use to complete the 5150 document. Prudence suggests that it be written in ink to dissuade ambulance and hospital personnel from making changes.

Q: After I complete a 5150, may I decide against pursuing the subject's detention?

A: Yes. The statutes say that an application "may" be written on a person who meets criteria. The statutes do not say that an application must be written on a person who meets criteria. Therefore, the author has discretion to pursue or not to pursue the detention. If the author chooses not to pursue the detention after an application has been created, she simply destroys the application.

Q: My facility is almost out of the 5150 documents printed by the State. Can we make copies of one of the remaining blank forms and use those copies as our originals?

A: Yes. The statutes expect that specific types of information will be provided by the author of the 5150 (Sections 5150 and 5157). We use the State form because it prompts the author to provide this required information (side one). A photocopy of the State form would, obviously, serve the same function. If it is OK to use copies of the State form, the next question might be: Does the copy have to include side two? Side two of the State form simply contains definitions and instructions germane to side one. While it may be prudent to include these instructions on each copy, an application is not made invalid by the fact that side two is blank.

Restraint Use

Q: I have written an application in the community. May I physically restrain the subject of that application to ensure that he does not run away?

A: Individual LPS-designation authority does not give the clinician the authority to lay hands on or restrain the subject of an application. The clinician's first choice for assistance in this situation is a peace officer. Clinicians should be aware of the fact that policies related to the conditions under which an officer might participate in the apprehension of a subject on the run are likely to be different for each law enforcement agency, and might even differ by region.

Q: I have written an application in the community. May I physically restrain the subject of that application if he is combative?

A: Individual LPS-designation authority does not give the clinician the authority to lay hands on or otherwise restrain the subject of an application. The clinician's first choice for assistance in this situation is a peace officer, but there will be times when ambulance personnel might be willing to assist the clinician with a combative subject. The difficulty for the clinician rests in deciding how to manage the combative patient before police and/or ambulance personnel arrive at the scene.

Q: I have written an application in the community. May I use physical force to defend myself against the subject if he attacks me?

A: The clinician may use reasonable force to protect herself against physical attack, but prudence suggests that avoiding an attacker is better than engaging an attacker.

Flight

Q: I have written an application in the community. The subject has run away from me. Must he be retrieved?

A: The statutes say that an application "may" be written on a person who meets criteria. The statutes do not say that an application must be written on a person who meets criteria. Therefore, the author has discretion to pursue or not to pursue the detention. It is possible that liability concerns will argue in favor of having the subject apprehended. In very general terms, the liability solution will depend on the degree to which the subject poses a risk to self or others. (Not all persons who meet criteria for an application are dangerous to the same degree.) All questions regarding clinician liability should be directed to counsel.

Medical patients

Q: May I initiate an application if the subject is receiving medical care on a medical/surgical unit?

A: Yes. Designation authority may be exercised in any setting. If transfer to a designated facility is required, extreme care must be taken to identify and accommodate the subject's on-going medical needs. The best scenario is one in which the subject's treating physician takes responsibility for communicating the patient's condition and ongoing medical needs to the destination hospital.

Q: I am performing a 5150 evaluation on a medical patient. The charge nurse tells me that the patient is stable for transfer. What does "stable for transfer" mean?

A: "Stable for transfer" simply means that the patient's medical condition will likely not deteriorate en route to the next facility. This phrase communicates nothing about the patient's on-going medical needs.