

LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH

**LPS DESIGNATION GUIDELINES
AND PROCESS FOR FACILITIES WITHIN
LOS ANGELES COUNTY**

Seventh Edition

(Revised February 2016)

**LPS DESIGNATION GUIDELINES AND PROCESS FOR FACILITIES
WITHIN LOS ANGELES COUNTY**

SEVENTH EDITION

TABLE OF CONTENTS

<u>PAGE</u>	
<u>4</u>	<u>I. LPS DESIGNATION GUIDELINES FOR FACILITIES</u>
4	A. DELEGATION OF AUTHORITY TO INVOLUNTARILY DETAIN AND TREAT
4	B. FACILITY OPERATIONS GUIDELINES
9	C. STAFFING GUIDELINES
9	D. POLICIES AND PROCEDURES
11	E. PHYSICAL ENVIRONMENT
12	F. DOCUMENTATION AND TREATMENT GUIDELINES
<u>14</u>	<u>II. AUTHORIZATION TO TAKE INDIVIDUALS INTO CUSTODY PURSUANT TO THE LANTERMAN-PETRIS-SHORT ACT</u>
14	A. GENERAL GUIDELINES RELATED TO DESIGNATED INPATIENT FACILITIES
17	B. CRITERIA FOR APPROVAL OF INPATIENT FACILITY'S AUTHORIZATION OF INDIVIDUALS TO INITIATE INVOLUNTARY DETENTION
18	C. LOCAL MENTAL HEALTH DIRECTOR AUTHORIZATION/ REAUTHORIZATION OF INDIVIDUALS FOR A SPECIFIED PERIOD
18	D. LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH AUTHORIZATION OF INDIVIDUALS TO INITIATE INVOLUNTARY DETENTION
19	E. PEACE OFFICERS
<u>19</u>	<u>III. INITIAL FACILITY DESIGNATION</u>
19	A. PROCEDURES
20	B. LENGTH OF DESIGNATION
<u>20</u>	<u>IV. FACILITY REDESIGNATION</u>
20	A. PROCEDURES
21	B. LENGTH OF DESIGNATION
<u>21</u>	<u>V. WITHDRAWAL OF DESIGNATION, CONDITIONAL DESIGNATION, AND REINSTATEMENT OF DESIGNATION</u>
21	A. CIRCUMSTANCES UNDER WHICH THE LOS ANGELES COUNTY DIRECTOR OF MENTAL HEALTH MAY <u>WITHDRAW</u> HIS OR HER DESIGNATION OF A FACILITY
22	B. CIRCUMSTANCES UNDER WHICH THE LOS ANGELES COUNTY DIRECTOR OF MENTAL HEALTH MAY PLACE A DESIGNATED FACILITY ON <u>CONDITIONAL</u> DESIGNATION STATUS

PAGE

- 22 C. CIRCUMSTANCES UNDER WHICH THE LOS ANGELES COUNTY
DIRECTOR OF MENTAL HEALTH MAY WITHDRAW APPROVAL OF A
DESIGNATED FACILITY'S AUTHORIZATION OF AN INDIVIDUAL
- 23 D. CIRCUMSTANCES UNDER WHICH THE LOS ANGELES COUNTY
DIRECTOR OF MENTAL HEALTH MAY REINSTATE APPROVAL OF A
FACILITY'S AUTHORIZATION OF A RE-HIRED OR RETURNING INDIVIDUAL
- 23 E. PROCEDURES FOLLOWING WITHDRAWAL OF DESIGNATION OF A
FACILITY OR WITHDRAWAL OF APPROVAL OF A DESIGNATED
FACILITY'S AUTHORIZATION OF AN INDIVIDUAL BY THE LOS ANGELES
COUNTY DIRECTOR OF MENTAL HEALTH
- 24 F. CIRCUMSTANCES UNDER WHICH THE LOS ANGELES COUNTY
DIRECTOR OF MENTAL HEALTH MAY SUSPEND THE AUTHORITY OF THE
FACILITY TO INVOLUNTARILY DETAIN OR TREAT UNDER THE LPS ACT
OR SUSPEND THE APPROVAL OF A DESIGNATED FACILITY'S
AUTHORIZATION OF AN INDIVIDUAL

25 VI. APPENDICES

- 25 A. CALIFORNIA CODE OF REGULATIONS SECTION 663.
INPATIENT STAFFING
- 26 B. STRUCTURAL AND EQUIPMENT REQUIREMENTS TO ENSURE PATIENTS'
RIGHTS PURSUANT TO WIC SECTION 5325 AND 5325.1
- 27 C. WELFARE AND INSTITUTIONS CODES § 5250, 5260, 5270 REQUIRED
NOTICE TO SUPERIOR COURT
- 33 D. SECTION 5150(f)-5150(h)
- 35 E. PROCEDURE FOR 5150 DETENTION AUTHORIZATION INITIAL APPROVAL
OF PROFESSIONAL STAFF OF DESIGNATED FACILITIES
- 36 F. PROCEDURE FOR 5150 DETENTION AUTHORIZATION RENEWAL OF
APPROVAL OF PROFESSIONAL STAFF OF DESIGNATED FACILITIES
- 37 G. BUSINESS AND PROFESSIONS CODE SECTION 650. CONSIDERATION
FOR REFERRAL OF PATIENTS, CLIENTS, OR CUSTOMERS;
VIOLATIONS; PENALTY
- 38 H. MONTHLY DATA REPORT FOR LAC DMH LPS DESIGNATION;
39 MONTHLY DATA REPORT FOR LAC DMH LPS DESIGNATION –
URGENT CARE CENTER
- 40 I. PATIENTS' RIGHTS TRAINING – MASTER OUTLINE
- 44 J. LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH
PMRT-PET PARTNERSHIP: NINE POINT PLAN – JULY 2014
- 45 K. OPERATIONAL GRID FOR LOS ANGELES COUNTY-PERMITTED 5150
ACTIVITY FOR 5150 DETENTION AUTHORIZED INDIVIDUALS
- 46 L. FREQUENTLY ASKED QUESTIONS (FAQS) REGARDING CHANGES IN LAC
DMH PROCEDURES RELATED TO [WELFARE AND INSTITUTIONS CODE]
WIC 5150 DETENTION - REVISED JULY 28, 2015

LPS DESIGNATION GUIDELINES AND PROCESS FOR FACILITIES WITHIN LOS ANGELES COUNTY (Seventh Edition)

DECLARATION:

Facilities and individuals who meet the criteria and process requirements set forth in this document may be designated to evaluate and treat persons involuntarily detained under the Lanterman-Petris-Short (LPS) Act.

Objectives:

- 1) To enhance the capability and overall quality of the mental health delivery system in Los Angeles County.
- 2) To ensure proper utilization of the designation authority by granting it to only those facilities which meet specified guidelines.
- 3) To establish the terms of and conditions pertaining to the delegation of authority by which individuals are taken into custody under the Lanterman-Petris-Short (LPS) Act.

I. LPS DESIGNATION GUIDELINES FOR FACILITIES

A. Delegation of Authority to Involuntarily Detain and Treat

1. The authority under the LPS Act to take individuals into custody and to involuntarily treat mental health patients is vested by state law in the Local Mental Health Director.
2. In Los Angeles County, the size and diversity of the community are such that the Director of the Los Angeles County Department of Mental Health, in his or her capacity of Local Mental Health Director, delegates authority to involuntarily detain and treat.
3. Involuntary detention under LPS Act constitutes a significant deprivation of civil liberties that is supported under limited circumstances described in law and regulation.
4. Involuntary detention and treatment is deemed necessary to protect the safety of certain individuals and the community in circumstances permitted by law.
5. These designation guidelines describe the nature, extent and processes by which authority to involuntarily detain and treat under the LPS Act is delegated to others by the Director of the Los Angeles County Department of Mental Health.

B. Facility Operations Guidelines

1. A designated facility provides evaluation and treatment services for persons who, as a result of a mental disorder, are judged to be dangerous to self or others and/or gravely disabled. It adheres to those regulations and statutes relevant to the clinical, health and safety needs of those persons.
 - a. The facility must comply with applicable constitutional, statutory, regulatory, and decisional law, including but not limited to California Welfare and Institutions Code Section 5000 *et. seq.*, the requirements set forth on California Code of Regulations, Title 9, Sections 663, 821-829 and 835-868, the requirements governing mental health facilities and/or treatment of Titles 22 and 24 of the California Code of Regulations, the Civil Code, Health and Safety Code, the California Penal Code, Sections 11164-11174.3 and California Welfare and Institutions Code, Sections 15630 and 15610-15610.65 governing mandated reporting, and all applicable policies, procedures or guidelines governing LPS designation established by the Los Angeles County Department of Mental Health (LAC DMH).

- b. The facility maintains all applicable current licenses as appropriate for its type. No designated facility may show any gross violation of clinical practice and/or safety provisions relevant to the class of persons for whom the designation applies, although the violations may not be explicitly covered by licensing standards. Any such gross violations, as determined by the Los Angeles County Mental Health Director, can result in discontinuance of the facility designation.
- c. An inpatient facility remains accredited by the Joint Commission on Accreditation of Healthcare Organizations (TJC) or by an approved equivalent agency, and complies with CMS Medicare Conditions of Participation. Skilled Nursing Facilities and Psychiatric Health Facilities shall comply with all provisions of Title 22 of the California Code of Regulations and shall comply with all laws, regulations, CMS Conditions of Participation, and standards of care as apply to them. Urgent Care Centers shall comply with all laws, regulations, and standards of care as apply to them.
- d. The facility maintains a current Medi-Cal FFS contract with the Los Angeles County Department of Mental Health as a condition of designation.
- e. The facility assumes the full responsibility for assuring appropriate patient care and safety, and accepts all attendant legal obligations.
- f. The facility has 24 hour a day, seven day a week mental health admission, evaluation, referral, and treatment capabilities, and provides whatever mental health treatment and care involuntarily detained persons require for the full period they are held (WIC 5152).
- g. All areas of a general acute medical facility may be designated, providing:
 - 1) The facility has one or more inpatient mental health units under the same licensure, unless a specific exception is made by the Los Angeles County Director of Mental Health.
 - 2) Involuntarily detained patients are treated in areas other than the mental health unit only if their medical condition requires it.
 - 3) Appropriate mental health staffing, assessments, programs and treatment are provided to all involuntarily detained patients regardless of their physical location within the facility.
 - 4) All rights guaranteed to mental health patients by statutes and regulations are observed.
 - 5) All rights to administrative and judicial review to which patients may be entitled, including but not limited to certification hearings, medication capacity hearings, and writs of habeas corpus, are properly initiated, implemented, and conducted. [Also See Guidelines I.F.10 and Appendix C].
 - 6) Seclusion and restraints are not used to compensate for inadequate staffing, lack of program or building security. Use of seclusion and/or restraints complies with all Title 9, Title 22, Health and Safety Code, CMS, and TJC standards. [Also See Guidelines I.B.1.ee and I.B.1.ee.(1)].
 - 7) The involuntary treatment provisions of the Lanterman-Petris-Short Act are not used to authorize or deliver medical treatment. Consent to medical treatment must be obtained as otherwise provided in law.
- h. Transfer of patients involuntarily detained under LPS to general medical units:
 - 1) Transfer from a psychiatric unit to a medical unit within an entire LPS designated medical facility: The patient remains subject to LPS detention. Care must be provided in a fashion consistent with prevailing standards of inpatient psychiatric care and the LPS Designation Guidelines of the Los Angeles County Department of Mental Health. This includes regular assessment by a psychiatrist and the adherence to all LPS patients' rights and due process requirements.

- 2) Transfer from a designated psychiatric facility to another accepting LPS designated general medical facility: The actions at the receiving facility must comport with all LPS requirements. The receiving facility must notify the Mental Health Court of the change of the patient's location and should be prepared to attend any scheduled writ or probable cause hearings. Care must be provided in a fashion consistent with prevailing standards of inpatient psychiatric care and the LPS Designation Guidelines of the Los Angeles County Department of Mental Health.
- 3) Transfer from an LPS designated facility to a general medical facility that is not LPS designated: The LPS designated facility must properly discharge the patient prior to transfer, as LPS detention cannot be provided at non-LPS-designated facilities. If the patient is later discharged from the non-LPS designated medical facility and readmission is sought to a designated LPS facility, the patient must again be assessed to determine whether a subsequent 5150 hold and admission is appropriate.
 - i. Referring parties are made aware that the facility's off-site evaluation program is a private service that is not authorized to hospitalize persons on an involuntary basis anywhere but at their designated facility.
 - j. The facility ensures that once patients are discharged from custody detention of assessor, they are provided with the means to return safely to the area where they were taken into custody, if that is their request.
 - k. The facility ensures that, of the time patients spend in a non-designated medical facility emergency room to which they have come for medical treatment and wherein identified staff believe there is a need for 5150 evaluation, any detention time (up to 24 hours) awaiting placement to a designated facility is deducted from their subsequent 72 hour detention period, pursuant to Health and Safety Code section 1799.111. Also See Appendix L (FAQs)].
 - l. In situations when assessment pursuant to 5151 at an out-of-county LPS designated facility results in determination that an individual detained under WIC 5150 cannot be properly served without being detained, that individual may be directly transferred from the out-of-county LPS designated facility to an accepting Los Angeles County LPS designated facility, provided that documentation of an acceptable 5151 assessment by a member of the attending staff of the sending designated facility accompanies the transported individual. An acceptable 5151 assessment is one which contains the conclusion that the individual requires detention or requires admission for evaluation and treatment.
 - m. Prior to admitting a person to a designated facility pursuant to Section 5150, the professional person in charge of the facility or his or her designee assesses the individual in person to determine the appropriateness of the involuntary detention, as per WIC Section 5151.
 - n. When a **county-operated** LPS designated facility has determined under WIC 5585 that acute psychiatric inpatient admission is necessary for an LPS-detained **adolescent**, and determines that no acute psychiatric inpatient adolescent beds are available in non-publicly operated LPS designated facilities, the county-operated LPS designated facility must transfer the adolescent to an LPS designated acute inpatient adolescent bed in a DHS facility, with priority for admission based upon the time the adolescent has been detained prior to admission.
 - 1) **County-operated** LPS designated facilities must document regular efforts to identify and access available county-operated acute psychiatric inpatient beds in instances in which there are no acute psychiatric inpatient adolescent beds available in non-publicly operated LPS designated facilities for an LPS-detained adolescent.
 - o. **County-operated** LPS designated public facilities with acute psychiatric **adolescent** inpatient beds must:
 - 1) Provide a verified daily census to Countywide Resource management.
 - 2) Have a policy and procedure that describes the manner in which county-operated LPS designated facilities access adolescent inpatient beds based on the priority noted above.

- p. The clinical record associated with a 5151 assessment in an LPS designated facility that results in the release of an individual initially detained by LAC DMH PMRT or authorized staff of LAC DMH directly operated or contracted programs, must include documentation of the probable cause for detention recorded on the 5150 application, and the reason the 5151 evaluator felt that the cause (and other written clinical information provided with the 5150 application by the PMRT or program staff) did not suffice to require a clinical decision to continue involuntary detention.
- q. Upon transport of an individual detained under WIC 5150 to an LPS designated Urgent Care Center (UCC) from a non-LPS designated location, a reassessment for probable cause should be conducted and, if probable cause is found, a new detention application should be completed at that time by an LPS authorized individual.
- r. Transport of an individual detained under WIC 5150 to an LPS designated UCC from an LPS designated location may occur only under circumstances in which the WIC 5150 will not expire within 24 hours of the time the detainee arrives at the UCC.
- s. LPS designated facilities which transfer patients detained pursuant to WIC 5150 to an LPS designated Urgent Care Center (UCC) must accept the individuals back under the following circumstances:
 - 1). The detained individual cannot be stabilized and released at the Urgent Care Center within 24 hours, and no bed is available at another accepting inpatient LPS designated facility.
- t. LPS designated Urgent Care Centers accepting patients detained on a 5150 must complete a risk assessment for each patient.
 - 1). LPS designated UCCs receiving patients on 5150s must refer to all documentation received with the 5150 in the risk assessment, reflect the consideration of the documentation received in the decision to admit the client, contact the 5150 originator if a decision is made not to admit the client, and document the basis for determining the release of clients who were detained as a danger to self or others.
- u. LAC DMH considers detention status under WIC 5150/5151 to be independent of any previous episodes of 5150 regardless of contiguity. [Also See Appendix L].
- v. LAC DMH considers the seventy-two hours of detention under WIC 5150 to begin at the time of admission to an LPS designated facility, pursuant to the 5151 evaluation. [Also See Appendix L (FAQs)].
- w. Once a facility accepts the patient for treatment by either conducting an assessment or otherwise intervening in the community, or by admitting a patient brought to the facility, it assumes the responsibility for seeing the case through to its appropriate disposition – i.e., the clinically indicated, available, and legally allowable treatment, referral or placement that best meets the patient’s clinical needs and desires.
- x. The facility makes arrangements for interpreters or for use of other mechanisms to ensure adequate communication between patients and personnel, if any language or communication barriers exist between facility staff and patients.
- y. The facility allows the LA County Department of Mental Health to review the facility for initial designation and for the continuation of such designation.
- z. The facility allows the LA County Patients’ Rights Advocate access to all staff and patients at all times to conduct investigations to resolve specific complaints. Patients are allowed access to the Patients’ Rights Advocate at any time.
- aa. The facility allows the LA County Mental Health Director or designee and the LA County Patients’ Rights Advocate access, upon request, to all treatment records, logs, policy and procedure manuals, contracts, credentials files and/or personnel records of staff empowered to initiate 72 hour holds, and

other professional staff in order to conduct investigations and assess compliance with LPS and Patients' Rights statutes and regulations.

- bb. The facility abides by the procedures established by the Superior Court and the Los Angeles County Department of Mental Health for all mental health-related court hearings that are facility-based [including but not limited to certification review ("probable cause") hearings, medication capacity ("Riese") hearings, Roger S. hearings and clinical reviews], and that are court-based [including writs of habeas corpus, medication capacity appeals, and all conservatorship proceedings].
 - 1). The facility is responsible for transport and escort of patients to and from, and supervision of them at, all mental health-related court hearings.
- cc. In instances in which an involuntarily admitted individual meets all of the following criteria, an LPS designated facility must either request an LPS conservatorship investigation by the LAC Public Guardian, or explicitly state in the clinical record the reason for not doing so.
 - 1). Current detention under 5250 by reason of grave disability;
 - 2). Finding of probable cause for detention by the Court;
 - 3). Three or more previous psychiatric hospitalizations under 5250 within the last twelve months by reason of grave disability;
 - 4). Current diagnosis of schizophrenia, schizoaffective disorder, or mood disorder with psychotic features. [Also See Appendix C].
- dd. The inpatient facility abides by all Patients' Rights Conditions of Participation as set forth by CMS in 42 CFR part 482 inclusive of seclusion and restraint requirements, and ensures that a physician or clinical psychologist with appropriate privileges (or trained registered nurse or physician assistant) sees and evaluates (face-to-face) the need for restraint or seclusion within one hour after the initiation of the intervention. The time limits of orders for restraint or seclusion are within CMS and TJC specifications. Patients in restraint or seclusion are continually monitored and reassessed appropriately, as per CMS, Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6), and TJC requirements. Skilled Nursing Facilities, Psychiatric Health Facilities, and Urgent Care Centers must abide by Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6), and LA County Department of Mental Health policies and procedures regarding seclusion and restraint.
 - 1). The facility's process for using restraints or seclusion with mental health patients in an emergency situation has clinical integrity, and is the principle responsibility of trained clinicians who routinely promote de-escalation and prevention of unwanted psychological effects.
- ee. The facility has a system and procedures in place to ensure the confidentiality, security, integrity, and accessibility of patient health information, inclusive of a contingency plan for the storage and protection of filed medical records against unauthorized intrusion and/or damage.
- ff. The facility submits required reports by established deadlines to the LA County Department of Mental Health via the Patients' Rights Office regarding involuntary detentions, patients' rights denials, seclusion and restraints, electroconvulsive treatment and psychosurgery, as required by WIC 5326.1, 5326.15, and CCR, Title 9, Section 866, and Title 22. The facility reports data collected as set forth in Section I.F. (including any revisions thereafter adopted) and in Los Angeles County Department of Mental Health policy by established deadlines.
- gg. The facility must notify the LA County Department of Mental Health of any changes that may significantly affect the facility's conformance with the criteria for designation, including modification of physical structure, number of beds, demographic or diagnostic aspects of patient population, therapeutic services, or policy or procedure concerning staffing, program, or operations. Based on receipt and analysis of such information, LAC DMH may require a focused review as a condition of continued facility designation.

- hh. The facility indemnifies, defends, and will hold harmless the Los Angeles County Department of Mental Health, Los Angeles County Board of Supervisors, and the State Department of Health Care Services, and their officers, agents and employees, from and against any and all claims, losses, liabilities, or damages arising out of, or resulting from the facility's or its designees' exercise of County-granted LPS authority to detain and treat patients on an involuntary basis.

C. Staffing Guidelines

1. The facility has adequate 24-hour professional supervision to meet the clinical needs and ensure the safety of patients judged to be dangerous to themselves or others or gravely disabled.
2. At a minimum, the staffing must meet the requirements specified in Title 9, Section 663 of the California Code of Regulations. (See Appendix A).
 - a. In addition, the facility must have methods for determining staffing requirements based on assessment of patient needs, as per CCR Sections 71213 and 71215. The facility, upon request, makes available for review documentation of the methodology used in making staffing determinations, and provides verification that actual staffing meets the specified requirements.
3. Staff must hold current and valid California professional licenses where required.
4. All staff involved in the evaluation and treatment of involuntary patients must be fully conversant with the involuntary detention statutes (WIC Section 5150 *et seq.*) and with patients' rights statutes (WIC 5325 and 5325.1) and related regulations (CCR Section 860 *et seq.*), inclusive of residents, attending physicians and psychologists, allied health professionals, and clinical employees.
 - a. The facility makes available for review required documentation of attendance of staff at inservice training concerning LPS and patients' rights statutes and regulations (i.e., evidence of orientation at time of hire and of annual updates). (See Appendix I entitled "Patients' Rights Training – Master Outline" for a guide for inservice training).
5. All staff involved in the evaluation and treatment of involuntary patients must be fully conversant with all mandated reporting statutes (including Penal Code Sections 11164-11174.3 and WIC Sections 15630, 15610-15610.65, and 15659), inclusive of residents, attending physicians and psychologists, allied health professionals, and clinical employees.
6. The facility meets requirements of TJC or of an approved equivalent agency for orientation and training of agency personnel, if utilized.

D. Policies and Procedures

1. The facility has acceptable policies and procedures, plans, and contracts (without compensation or inducement for referring patients) which comport to the Welfare and Institutions Code, the California Code of Regulations, and the California Business and Professions Code related to the legal, ethical, fiscally sound, and clinically appropriate psychiatric treatment of both voluntary and involuntary patients.

These policies and procedures, plans, and contracts are made available for review and must include, but are not limited to, the following:

a. Legal Issues

--Initiation of 72 hour detentions, 14 day certifications (1st and 2nd), additional certifications for gravely disabled persons, 180 day post certifications, and LPS conservatorships, and how the facility will assure proper implementation of these holds;

--Patients' due process rights, including procedures relating to certification ("probable cause") hearings, writs of habeas corpus, medication capacity ("Riese") hearings, and five day notice requirements prior to establishment of temporary LPS conservatorships, and how the facility will assure that all requirements are met with regard to these rights;

- Patients' rights and denial of rights including required documentation and reporting;
- Use of seclusion and restraints;
- The dissemination of information on the risks and benefits of medication and procedures used for obtaining informed consent for medication;
- Confidentiality; plan for storage and security of medical records;
- Required patients' rights notification and advisements;
- Required notification to patient of prohibition from owning, possessing, receiving, or purchasing firearms for a period of five years, including provisions for petition to Superior Court for relief of firearms prohibition, and provision of power of attorney declaration for firearms transfer and disposal;
- Required notifications of next of kin;
- Consents for treatment;
- Electroconvulsive treatment; psychosurgery or deep brain stimulation (if performed at the facility);
- AWOL, AMA, and approved discharges, including discharge planning that appropriately uses resources in the county (or counties) of initial LPS detention and residence;
- Admissions criteria and procedures, including those pertaining to minors in applicable facilities;
- Personal searches (types, justification for each type, and personnel and documentation required for each type of search);
- Room searches;
- Contraband;
- Time out;
- Tarasoff procedure and,
- Mandated reporting.

b. Ethical, Community Service, and Fiscally Sound Practices

- Facility Code of Ethics;
- Conflict of Interest;
- Process for resolving patient complaints, including (if applicable) Local Mental Health Plan (Medi-Cal) Beneficiary/Client Grievance and Appeal procedures;
- Criteria for identifying potential abuse; procedures for management of alleged physical and sexual abuse;
- Criteria for identifying issues of child endangerment or abandonment. This includes making efforts to determine upon admission whether the patient is a custodial parent or caregiver of a child or an elder or dependent adult and if so, whether a report should be made pursuant to Penal Code Section 11164 et seq. or WIC 15630 et seq.;
- Advance Directives;
- Hospital plan for patient care;

- Strategic Plan [goals for psychiatric services] with community needs, services, and priorities identified;
- Program services and schedules, and handouts for patients;
- Staffing Plans for patient care areas;
- Intake/admissions policies and procedures, including procedures for accepting transfer to the hospital of individuals detained pursuant to WIC Section 5150 in a different county (e.g., verifying conditional LPS authorization by LAC of the professional who detained the individual out-of-county);
- Contracts or Agreements for providing or receiving Psychiatric Mobile Response Team(s) services to non-designated facilities, and/or with individuals providing emergency evaluations; and,
- Safeguarding of belongings throughout hospitalization and during transfer and discharge.

c. Clinical Appropriateness

- Utilization Review Plan with mechanism for over- and under-utilization oversight and implementation of admission, continued stay, and discharge criteria;
- Mechanism for identification and management of critical incidents;
- Safety and Disaster Plans;
- Performance Improvement Plan with performance measures for professional staff [i.e., 72 hour hold (5150) proctoring and monitoring criteria], and,
- Governing Body and Medical Staff Bylaws and Rules and Regulations.

E. Physical Environment

1. The facility has a safe, clean, and comfortable physical plant which ensures the safety of, and which meets the clinical and physical needs of patients identified as being dangerous to self or others or gravely disabled, and which is in compliance with all applicable statutes and regulations.
2. At the conclusion of construction and/or conversion to a psychiatric program, the physical plant operated by the facility meets the structural standards as provided in CCR Title 24 and has had its plans and construction approved by all legally dictated authorities.
3. The psychiatric program is housed in a separate and distinct unit within the facility's physical structure.
4. The facility provides a secure outdoor area safely accessible so that all patients have access to fresh air daily, weather permitting, unless the attending practitioner verifies that such access would place them or others in significant jeopardy.
5. Each mental health unit has a separate observation room near the Nursing station that provides a safe environment for those patients placed in seclusion and/or restraints and that supports the dignity of the individual to the extent possible.
6. The facility's physical plant has fire clearance from the Office of the State Fire Marshall and meets 2012 Life Safety Code (CMS 482.41).
7. The facility's physical plant is structured and equipped to meet patients' rights requirements pursuant to WIC Sections 5325 and 5325.1. (See Appendix B).
8. The facility provides designated smoking areas with adequate ventilation to ensure healthful air quality or alternate nicotine replacements for patient comfort.

9. A facility treating minor inpatients ensures they are housed in a separate unit away from the adult population absent a waiver from the Patients' Rights Office (WIC, Sections 5585.55 & 5751.7).
10. The facility provides adequate, safe, and appropriately secure space, and also any necessary security personnel or staff acting in a security role, to meet the clinical and safety needs for all facility-based hearings, such as probable cause, 5270, Riese, Roger S., and clinical reviews.

F. Documentation and Treatment Guidelines

The designated facility participates in quality improvement activities, including documentation, data collection and quarterly reporting, as specified by the Los Angeles County Department of Mental Health in this document and in PET evaluation form requirements, and in subsequent revisions thereto. (See Appendix H).

1. Data Collection: [Sources: LA County, if available; facility, if unavailable from LAC DMH database]
 - a. # licensed beds; average daily census; average length of stay and length of stay by program
 - b. # 5150 detention authorized staff; % of admitting staff with 5150 detention authority
 - c. (%): # voluntary admissions ÷ total # assessments completed by PET; (%): # involuntary admissions ÷ total # assessments completed by PET
 - d. (%): # involuntary admissions ÷ # total admissions
 - e. % population indigent or unfunded; % population Medi-Cal; # benefit applications initiated (ex.: Medicare, Medi-Cal, Social Security)
 - f. (%): # 5250's upheld ÷ # 5250 hearings; (%): # 5270's upheld ÷ # 5270 hearings
 - g. # Riese hearings
 - h. (%): # writs heard ÷ # writs filed
 - i. # complaints, # grievances, and # appeals filed
 - j. Compliance with reporting timelines - % submitted by established deadlines to Patients' Rights' Office
 - k. Frequency of use of seclusion/restraints – (fraction or %): # events ÷ # patient days per month
 - l. GAF (global assessment of functioning) average change = Discharge GAF- (minus) Admission GAF
 - m. (%): # AMA discharges ÷ total # discharges; # AWOLs without return
 - n. # deaths (including up to 72 hours post-discharge); # critical incidents, e.g. suicides, homicides, physical abuse, serious injury, taser use
 - o. Compliance with patients' rights (score)
2. Electronic Records: For purposes of detention in an LPS designated facility, documentation of the WIC "Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment" and the "Involuntary Patient Advisement", including documentation that is generated by electronic means, must contain all of those elements of the current LAC DMH LPS "Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment" and the "Involuntary Patient Advisement".
3. The facility ensures that initial assessments of referred patients are completed regardless of ability to pay.

4. Comprehensive mental health assessments of voluntary and involuntary patients include documentation substantiating the need for current treatment and level of care, and are completed by the attending practitioner within 24 hours of admission.
5. Authorized members of the professional staff who initiate involuntary detentions participate in the care and treatment of the patients for whom they initiate 72 hour holds (inclusive of participation in treatment planning), pursuant to WIC Section 5150 and CCR Section 823.
6. The facility ensures that patients are appropriately involved in planning their care and treatment, as evidenced by documentation of patient participation in treatment planning.
7. The facility ensures that patients' medical problems are identified, addressed, and documented in treatment plans.
8. The facility must ensure full compliance with WIC Section 5328.1, which pertains to provision of information to family members, and must have internal policies and clinical documentation that reflect these practices.
9. The facility meets LAC DMH requirements for application and referral of clients to LAC DMH for petition for establishment of LPS conservatorships. (See Appendix C)
10. The facility ensures that the attending practitioners are present and testify at all appropriate hearings (e.g., Writs, LPS conservatorship hearings, and medication capacity hearings), and that treating physicians meet all expectations related to communication with, and testimony in, Department 95 of the Los Angeles Superior Court. (See Appendix C).
11. A designated facility may provide telepsychiatric testimony for conservatorship hearings at the discretion of the court. Use of tele-testimony by LPS designated facilities should be compliant with applicable standards for telemental health services.
12. The facility ensures that, should an involuntarily detained person elope, appropriate measures are taken to protect the individual and the public, which include proper efforts to apprehend the person, and notifications or the use of a form transmitted to law enforcement agencies.
13. The facility responds timely to all inquiries from DMH outpatient providers of service responsible for the care of any individual hospitalized at the facility, and works cooperatively with the providers to establish effective transition to outpatient care.
14. The facility ensures that, upon discharge, patients receive practical, realistic and appropriate referrals to community agencies, suitable placement, and necessary transportation and transfer of care, as evidenced by documentation in the Discharge and Aftercare Plans and other easily identifiable records, regarding these elements and associated interagency communication to facilitate appropriate transition of care.
 - a. Uninsured, non-Medi-Cal patients who need further psychiatric medication are discharged with prescriptions for psychiatric medications that are available through the DMH uninsured formulary and consistent with DMH parameters for prescription of psychiatric medication.
15. The facility has a mechanism to review medical records on an ongoing basis for completeness and timeliness of information, and takes action to improve the quality and timeliness of documentation that impacts the care of voluntary and involuntary patients.
16. The facility establishes and maintains a mechanism for appropriately resolving complaints, grievances, and appeals.
17. The facility's professional staff establishes and maintains a mechanism for proctoring and ongoing peer review of knowledge and competencies of 5150 detention authorized professional staff members with involuntary detention procedures and 5150's. Criteria and outcomes of monitoring are made available for review by the LAC Director of Mental Health and/or designee(s).

18. The facility notifies the LA County Department of Mental Health via the Patients' Rights Office of all deaths and critical incidents, including suicides, homicides, and physical/emotional abuse, taser use, or serious injury involving a psychiatric patient by appropriately transmitted document within 24 hours of occurrence or by the next business day if event occurs on a weekend or holiday.
19. The facility establishes and maintains a mechanism for determining patient perception of the quality of the clinical treatment process and the satisfaction of individuals served. Outcomes are made available for review by the LAC Director of Mental Health or designee(s).

II. AUTHORIZATION TO TAKE INDIVIDUALS INTO CUSTODY PURSUANT TO THE LANTERMAN-PETRIS-SHORT ACT

A. General Guidelines Related to Designated Inpatient Facilities

1. Facility administration maintains a current roster and current credentials files of professional staff members who have been privileged and authorized to initiate 72-hour detentions (5150 detention authorization). The foregoing are made available on request to representatives of the LA County Department of Mental Health.
2. Continuation of the designation status of the facility requires that all professional staff of the facility comply with all applicable LPS requirements. These requirements include the limitation of involuntary detention to those individuals who meet LPS criteria and are taken into custody only by members of the professional staff with involuntary detention authority.
3. The facility ensures that all individuals with 5150 detention authority, whenever exercising or otherwise communicating either orally or in writing about their 5150 detention authorization-related activities, clearly identify their facility affiliation, and wear the mandated identification badge in face-to-face interactions.
4. The facility ensures that the completed original 5150 detention form is present in the medical record for all involuntarily detained patients. A completed form contains, in legible fashion, the signatory's professional discipline, assigned 5150 detention authorization number (i.e., the four digit hospital-provided identification number), and the facility affiliation under whose authority the involuntary detention was initiated. (See I.F.2 regarding electronic records).
5. The facility ensures that the involuntary detention authority granted to a member of the professional staff of the designated facility is exercised at the facility only in relation to the professional staff member's responsibilities in conjunction with that facility. (See Appendices J and K).
 - a. Facility-based non-mobile professional staff without admitting privileges may be granted involuntary detention authority at multiple designated facilities, which may be exercised on-site only. Such staff must be an employee and authorized professional staff member of the designated facility(ies).
 - b. Facility-based mobile team staff (PET) are limited to involuntary detention authority with only one LAC DMH designated facility, and must be an employee of the designated facility.
 - c. Authorized professional staff of designated facilities may exercise 5150 detention authority to any facility(ies) at which the professional staff member has admitting privileges.
6. Application for involuntary detention made by the professional staff member of the designated facility may only be used for placement in the facility from which the 5150 detention authorization was derived [unless given one-time, express permission by Access staff]. (See Appendices J and K).
7. In instances where an evaluation for possible involuntary detention is conducted off the facility premises, the authorized professional staff member with mobile response responsibilities must:
 - a. Be an employee of the designated facility. [Exception: 5150 Detention Authorized Physicians]
 - b. Be authorized to write holds to only one designated facility. [Exception: Must be given permission in order to write a hold to another designated facility, on a case-by-case basis, by a Supervisor at Access or Emergency Outreach Bureau Manager.]

[There are exceptions made by the LAC Department of Mental Health under certain circumstances in which other arrangements may be made, such as 5150 detention authorized physicians in their private offices, a Memorandum of Understanding (MOU) between parties, etc. The MOUs exist to serve atypical situations.]

- c. Defer evaluations for purposes of determining and executing involuntary psychiatric hospitalization (WIC 5585) for children and adolescents who are dependent (DCFS) and wards of the court (Juvenile Probation population) in Los Angeles County to LAC DMH Psychiatric Mobile Response Team (PMRT) 5150 detention authorized staff. Restricted settings include, but are not limited to, hospitals, foster, group, and family homes, and schools. (See Appendices J and K).
- d. Dress and travel in a manner that does not inappropriately attract attention to the individual being assessed.
- e. Complete a face-to-face assessment of the client prior to initiating an involuntary detention for that client.
- f. Conduct and document an assessment that considers the full range of available treatment modalities, sites, and providers, and results in the care that best meets the client's specific needs. Assessment of need is based upon condition, treatment needs, geography, and current fiscal and treatment relationships with providers. The care should be rendered without regard to profit or gain by the designee's parent facility.
- g. Have available a facility-approved comprehensive and current referral source list and be well versed in all relevant treatment resources in the client's area.
- h. Honor the preference of the client and/or the parent of a minor, conservator, or legal guardian for the type and location of the desired treatment facility if administratively feasible and clinically appropriate.
- i. Unless prohibited by specific circumstances, seek information from and involve, current providers of mental health care to the client in order to support continuity of care.
 - 1). If the client is receiving care from the Los Angeles County DMH and treatment information cannot be obtained from the client or significant other, evaluating professional staff must contact 1-800-854-7771 and request information regarding the Single Fixed Point of Responsibility (SFPR).
 - 2). If the client is currently receiving services from Los Angeles County DMH, the SFPR must be contacted within one working day of the evaluation, whether or not the client was hospitalized as a result of the evaluation.
- j. Strongly consider the proximity of the designated facility to the patient's own community, family and support system. Alternatives to taking a patient to a more distant facility should be considered and documented on the off-site assessment form.
- k. Ensure that proper interventions and/or treatment are provided to the client for whom they have initiated LPS evaluation until appropriate disposition is effected, e.g., one-to-one monitoring, removal of sharp objects, and the like.
- l. Give detainment advisements to clients in a language or modality that the client can understand, pursuant to WIC Section 5150(f)-5150(h), inclusive of the name of the facility to which the client is being taken, and notification that the person is not under criminal arrest, but is being taken for examination by mental health professionals. (See Appendix D).
- m. Follow all statutory requirements regarding client confidentiality.
- n. Maintain an accurate log of all requests for their off-premises services, including:
 - 1) date and time of both request and response;

- 2) referral source;
- 3) name of client;
- 4) time of intervention and departure;
- 5) completion of a written assessment of client, including consideration of less-restrictive alternatives;
- 6) services provided and/or referrals made;
- 7) disposition of the client;
- 8) name of staff involved;
- 9) a copy of the 72 hour hold if initiated; and,
- 10). source of payment.

Such log is available for inspection by the LAC Patients' Rights Office and/or other designees of the LAC DMH Director.

- o. Take reasonable precautions to preserve and safeguard the person's property, pursuant to WIC Section 5150(e) and 5211.
 - p. Initiate 72 hour holds only within the boundaries of Los Angeles County unless special written 5150 detention authorization or an exception (e.g., VA) has been granted by the County Mental Health Directors involved allowing for cross-county 5150 detention.
 - q. Represent themselves to the public as affiliated with the facility from which they derived their 5150 detention authority.
 - r. Initiate involuntary detentions only for persons who, based on the authorized staff member's professional assessment, are believed to be dangerous to self, or others, or gravely disabled because of a mental health disorder.
 - s. Abide by all provisions in the Welfare and Institutions Code Division 5, and accompanying regulations, and Department policies regarding treatment, evaluations, patients' rights, and due process.
 - t. When the client does not meet criteria for involuntary detention, provide the client with information, referral to appropriate community services, and/or other intervention as appropriate to his/her circumstances.
 - u. Report conditions of abuse or neglect at residential facilities, such as suspected or possible unsafe and unsanitary living conditions, involving elder or dependent adults and children, to the appropriate agencies - for example, APS, DCFS, Patients' Rights, Community Care Licensing, etc. [per WIC 15630 (a)-(h)].
 - v. Report potential child endangerment or abandonment and make efforts to determine offsite and upon admission whether the client is a custodial parent or caregiver of a child or caregiver of an elder or dependent adult and if so, whether a report should be made pursuant to Penal Code Section 11164 et seq. or WIC 15630 et seq.
8. Designated facilities that provide material support to members of the 5150 detention authorized professional staff during off-site assessments must provide full disclosure to the Los Angeles County Department of Mental Health regarding the nature, terms, and limitations of such support. Material support includes payments to the attending staff for such services, provision of vehicles, communication infrastructure, and patient transport. Full disclosure includes all applicable policies, procedures and contractual arrangements that relate to such support.

- a. The designated facility that provides this support has an administrator who is knowledgeable and responsible for ensuring that the support is in accordance with all applicable designation regulations.
 - b. The designated facility will not subcontract for psychiatric emergency team (PET) services.
9. 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.
10. The designated facility must have the ability to safely detain an individual pending 5150 assessment for up to one hour on-site pending the arrival of an authorized professional staff member.

B. Criteria for Approval of Inpatient Facility’s Authorization of Individuals to Initiate Involuntary

Detention

1. To be authorized under Welfare and Institutions Code Section 5150 to initiate a 72 hour period of involuntary treatment and evaluation, individuals must meet all of the following criteria:
- a. Must have received licensure and training as a mental health professional acceptable to the LAC Department of Mental Health.
 - b. Be a member in good standing of the facility professional staff, with a minimum of three years experience as a Licensed Mental Health Professional in an acute mental health setting, or completion of or membership in an approved psychiatric residency training program, as specified in the County of Los Angeles Department of Mental Health “Procedure for LAC DMH 5150 Detention Authorization Initial Approval of Professional Staff of Designated Facilities” and “Procedure for LAC DMH 5150 Detention Authorization Re-Approval of Professional Staff of Designated Facilities” (See Appendices E and F) and CCR, Title 9, Section 822, in Los Angeles County DMH Guidelines, and in facility bylaws, and meet all criteria for professional staff membership and clinical privileges set forth by the facility. CCR Sections 70706 and 70706.1 are followed for any 5150 detention authorized professionals who are not members of the medical staff.

It is the designated facility’s responsibility to:

- 1) Obtain verification of relevant training, experience and licensure of all individuals with 5150 detention authority, including Residents, if licensed;
- 2) Ascertain if there are previously successful or currently pending challenges to any licensure or registration or any relinquishment of such licensure or registration;
- 3) Make all reasonable written and verbal inquiries to determine if there has been voluntary or involuntary termination of professional staff membership, reduction or loss of clinical privileges at another facility;
- 4) Take all reasonable steps to determine if there have been final judgments or settlements involving the individual's practice in the mental health field;
- 5) Ensure members of the 5150 detention authorized professional staff receive active peer review based on monitoring criteria established by the professional staff, and clinical supervision consistent with membership on the professional staff, including proctoring regarding the exercise of 5150 detention authority;
- 6) Ensure non-medical staff have access to appropriate psychiatric consultation whenever exercising this authority;
- 7) Provide members of the 5150 detention authorized professional staff with a facility identification badge as specified by Los Angeles County Department of Mental Health LPS Detention Authorization Agreement (formerly LPS Designation Agreement) and Checklist requirements;

- 8) Notify the Los Angeles County Department of Mental Health via the Patients' Rights Office within one week of discovery of licensure suspension or revocation of authorized staff members, and of the occurrence of any termination, whether voluntary or involuntary, of professional staff membership or reduction or loss of clinical privileges at the designated facility by individuals with involuntary detention powers; and,
 - 9) Keep separate records or credentials files regarding the above for each individual with 5150 detention authority and make them available upon request to the Los Angeles County Department of Mental Health representative(s). The facility is accountable for verifying and submitting for authorization only fully qualified individuals.
- c. Be trained in an LPS class (as specified for Categories I, II, and III: Residents, Professional Staff With Admitting Privileges, and Professional Staff Without Admitting Privileges, in LAC DMH "Procedure for LAC DMH 5150 Detention Authorization Approval [Initial and Re-Approval] of Professional Staff of Designated Facilities" and in LAC DMH Guidelines) in involuntary detention laws and procedures, including patients' rights; be aware of any current changes in the law in this area; and be able to demonstrate such knowledge by achieving a passing score on a written examination administered by LA County Department of Mental Health representative(s). (See Appendices E and F).
- 1) Any voiding of the examination that results as a consequence of impropriety (e.g., talking to other examinees or consulting notes during the examination) automatically disqualifies the examinee from eligibility to retake the examination for a one year period from the date of impropriety, with the right of appeal by the facility to the Local Director of Mental Health. The disqualification and reason are reported by Los Angeles County Department of Mental Health to the professional clinically in charge of the facility who requested approval of the examinee.
- d. Be approved in writing as authorized by the Chief of the Medical Staff of the designated facility, based on the need for the individual's 5150 detention authorization, the individual's professional skills, and verification of whether the individual meets all criteria stated herein.
- e. Have responsibility consistent with the requirements of the professional staff bylaws and employment policies for the care and treatment of the patients for whom they initiate applications for involuntary detention and consistent with their function on the professional staff (per WIC Section 5150 and CCR Section 823).
- f. Abide by Business and Professions Code Section 650 regarding compensation for referrals (See Appendix G).
- g. Admitting professional staff (i.e., individuals permitted by facility bylaws to admit psychiatric patients) of a designated facility must conduct a face-to-face assessment of an involuntarily admitted patient within 24 hours.

C. The Local Mental Health Director authorizes individuals for a specified period, after which time further authorization requires attendance at an LAC DMH-approved LPS Training Course and testing session.

- 1. The LAC DMH Director may, at his or her discretion, use renewal of the professional staff 5150 privilege in lieu of training or re-testing as a basis for reauthorization for the next authorization period.
- 2. For an individual requesting new involuntary detention authorization after a lapse of no more than three years since the person's last LPS authorization period of at least three years duration, and whose involuntary detention authority was not withdrawn or suspended at any designated facility by DMH during the prior authorization period, no further LPS training or testing is required for re-authorization. [Also see Guidelines section V.D.]

D. Los Angeles County Department of Mental Health Authorization of Individuals to Initiate Involuntary Detention

The Los Angeles County Director of Mental Health may individually authorize professional persons to initiate involuntary detention (custody) as provided in Welfare and Institutions Code Section 5150. All such 5150

detention authorized individuals shall meet the requirements described in Title 9 Sections 622 and following of the California Code of Regulations.

E. Peace Officers

In accordance with Welfare and Institutions Code Section 5150, peace officers as described in California Penal Code Section 830 are empowered to initiate involuntary detention (custody) under the Lanterman-Petris-Short Act.

III. INITIAL FACILITY DESIGNATION

A. Procedures

1. The facility requesting designation notifies the LPS Designation Review Coordinator of the LA County Department of Mental Health.
2. The LPS Designation Review Coordinator then sends an informational packet to the facility delineating the criteria and procedures for LPS designation, inclusive of materials to be provided for review by the LAC Service Area Advisory Committee (SAAC) and the LAC Department of Mental Health, along with an application and agreement to be signed by the facility director, which stipulates that the facility agrees to abide by all designation guidelines and criteria set forth by the County.
3. Once the facility Medical and/or Administrative Director receives recommendation from the SAAC and/or LAC Department of Mental Health and believes that the facility meets the LPS designation guidelines, he/she submits the above application and agreement to the LAC LPS Designation Review Office and arranges for an on-site survey visit.
4. Representatives of the Los Angeles County Department of Mental Health, including Patients' Rights and quality management and medical staff specialist(s), conduct an on-site assessment of the facility – including the physical plant, staffing, policies and procedures, and credentials files – for compliance with the LPS designation guidelines and criteria. If the facility is already accepting patients, the assessment also includes an examination of treatment charts selected by the representatives, and voluntary interviews with selected patients and staff. The representatives also review Health Facilities Licensing reports, patient complaint logs and the facility's denial of rights, seclusion and restraint, involuntary holds reports, and grievance logs on file with the LAC Patients' Rights Office. At the time of the visit (or prior to the visit, if so requested), the facility provides the survey team with a copy of their current operating license, staffing plans by discipline and patient-to-staff ratios, Fire Marshall clearance, governing body and medical staff bylaws, Performance Improvement and Utilization Review Plans, a verification of 24 hour admitting capacity, type of management (directly operated or by contract), treatment schedules and program descriptions. At the time of the visit, the facility also provides the survey team with access to meeting minutes, manuals (Administrative, Nursing, Program, Safety/Risk Management), in-service records, and contracts/agreements related to off-site mobile response individuals and/or teams.
5. If the facility's physical plant has not yet opened at the time of the on-site review, LPS designation authority may still be granted on the basis of physical plant, staffing, licensure, policies and procedures (inclusive of Bylaws, Manuals and Plans), and credentials evaluations. However, in this instance, reassessment shall be conducted three months after commencement of the facility's operation and encompasses examination of treatment records, patient and staff interviews, in-service records, contracts with off-site mobile response individuals and/or teams, minutes, and logs and reports on file with the LAC Patients' Rights Office.
6. If the facility is found to be in compliance with the LPS guidelines and criteria, the LAC LPS Designation Review Survey Team Leader/Coordinator submits a written report to the LAC DMH Designation Review Committee and the LA County Mental Health Director with the recommendation that the facility be designated.
7. If the LA County Mental Health Director finds, based on all available information, that the facility meets all guidelines and criteria specified for designation, the Director may, as delegate of the Los Angeles County Board of Supervisors and after review by LA County Counsel, designate the facility for 5150 purposes.

- a. In the event that the LAC DMH Survey Team determines that the facility is not in compliance with the LPS designation criteria and the facility disagrees, it may, if it chooses, present information and/or arguments directly to the Director.
8. The recommendation is submitted to the State Department of Health Care Services liaison for final approval.
9. The Los Angeles County Mental Health Director notifies the facility Director in writing of the designation decision.
10. If the LAC DMH Survey Team members find that a facility is not in compliance with LPS guidelines and criteria, they inform the facility and the LA County Mental Health Director and make specific recommendations for compliance. A return on-site visit is scheduled once the facility notifies the LAC DMH LPS Designation Review Survey Team Coordinator that the recommendations have been implemented.
11. Prior to the facility's exercising its designation authority, all individuals involved in the involuntary detention process must have made application to the County of Los Angeles Department of Mental Health for approval to initiate involuntary evaluation and detention, with signed attestation by the professional person clinically in charge of the facility, must have received LA County-approved training on LPS statutes and patients' rights and achieved a passing score on a written examination, submitted a signed agreement to the terms of individual 5150 detention authority set forth by the Los Angeles County Department of Mental Health, and be issued an identification card and authorization number by the facility to be carried whenever imposing involuntary detention authority.

B. Length of Designation

1. Initial designation is provisional for six months, but is revocable at any time should the facility fail to comply with the designation guidelines.
2. The facility is monitored by the LAC Patients' Rights Office during the six months provisional period. If found to be in compliance, the facility is designated for three years from the time of the LPS survey, unless such designation is subsequently suspended or withdrawn.

IV. FACILITY REDESIGNATION

A. Procedures

1. The facility requesting redesignation notifies the LPS Designation Review Coordinator of the Los Angeles County Department of Mental Health.
2. The LAC DMH LPS Designation Review Coordinator sends an information packet to the facility, delineating the criteria and procedures for LPS redesignation, with an application and an agreement to be signed by the facility Director that the facility will abide by all designation guidelines and criteria set forth by the County.
3. The facility Director submits the above application and agreement to the LAC DMH LPS Designation Review Office and arranges for an on-site visit.
4. Under the auspices of the Los Angeles County DMH Director, the LPS Designation Review Survey Team conducts a review of each designated facility seeking redesignation to assess compliance with LPS designation guidelines and criteria, as outlined in Sections I and II. Such review encompasses a tour of the patient units, survey of open and closed treatment charts selected by the reviewers, voluntary interviews with clients, examination of policies, procedures, Manuals, Plans, minutes and contracts as specified in Section I.B. and I.C., and discussion with facility staff. In preparation for the visit, the reviewers examine: recommendations from the prior LPS designation survey(s); the patient complaint log; the facility denial of rights, seclusion and restraint, 72 hour hold, minors' due process hearings, ECT administration (if any), quarterly data collection, and any other relevant reports on file with the LAC Patients' Rights Office; certification and medication capacity review records, and; Accreditation Survey [TJC/AOA/DNV] and Health Facilities Licensing reports regarding the facility.

5. The reviewers apprise facility staff of their findings orally at the conclusion of the visit and in writing within 4 months thereafter, (via a preliminary draft and a final report) citing specific areas of compliance and noncompliance, and making recommendations for remedial action where indicated. Reviewers may also ask for a specific plan of correction to address areas of noncompliance, to be submitted within 30 days of report receipt or as otherwise directed.
6. The reviewers make a recommendation concerning the facility's continued designation to the LAC DMH Designation Review Committee and the LAC DMH Director. If the reviewers are unable to recommend continued designation they may elect to conduct a repeat on-site visit upon their determination that sufficient time has elapsed for the facility to correct identified deficiencies. Gross violation(s) of clinical practice, patients' rights, and/or safety practices relevant to the class of persons for whom designation applies can result in temporary suspension and/or discontinuance of the designation. [See Section V of this document for additional circumstances warranting conditional designation and/or withdrawal of designation.]
7. If the facility fails to correct identified deficiencies, the Los Angeles County DMH Director takes appropriate remedial action up to and including termination of the facility's designation.
8. The facility is notified in writing of the above action. Temporary suspension of a designation or placement of the facility on conditional designation status is a departmental administrative action requiring no action by outside parties.

B. Length of Designation

1. (Re)Designation as a facility to evaluate and treat persons involuntarily detained under the Lanterman-Petris-Short Act (Welfare and Institutions Code, Division 3) is valid for three calendar years from the time of the LAC DMH LPS redesignation survey, unless such designation is subsequently suspended or withdrawn.
2. Designation ceases if the facility has not detained patients on an involuntary basis pursuant to the WIC Section 5150 and/or 5152 for a period of two years.

V. WITHDRAWAL OF DESIGNATION, CONDITIONAL DESIGNATION, AND REINSTATEMENT OF DESIGNATION

A. The Los Angeles County Director of Mental Health may withdraw his or her designation of a facility under these Guidelines in the following circumstances:

1. Gross violation and/or ongoing violations of clinical practice, patients' rights, quality of care, and/or safety precautions relevant to the class of persons to whom designation applies;
2. Failure to comply with the terms and ethical provisions of law and LAC DMH policies regarding constitutional, statutory, regulatory and decisional law, including but not limited to WIC, Division 5, CCR Titles 9 and 22, and the Business and Professions Code, Section 650, concerning compensation for referrals;
3. Repeated failure to verify and submit for authorization only fully qualified individuals; failure to assure that 5150 detention authorized staff are appropriately monitored and supervised, and/or that its representatives exercise the involuntary detention and treatment authority in accordance with established LAC DMH Guidelines and legal requirements;
4. Failure to allow the LA County Director of Mental Health or his/her designees to review the facility for designation or complaint resolution purposes, including access to specified patients, staff, and records to establish compliance with LAC DMH LPS Guidelines and regulations;
5. Failure to correct circumstances within specified timelines that previously led to conditional designation;

6. Failure to truthfully disclose the material support provided to members of the 5150 detention authorized professional staff concerning off-site evaluation and 5150 detention activities, or to ensure the support is in accord with all applicable designation regulations; and,
7. Closure, loss of licensure, or loss of TJC or equivalent accreditation; failure to comply with Medicare Conditions of Participation.
8. Failure to maintain a current Medi-Cal FFS contract with LAC DMH.
9. When in the judgment of the LAC DMH Director, it is required by community needs.

B. The Los Angeles County Director of Mental Health may place a designated facility on conditional designation status under the following circumstances:

1. Failure to submit a timely or acceptable corrective action plan as requested in writing for cited deficiencies;
2. Failure to ensure that all rights guaranteed to mental health patients by statutes and regulations are adhered to, including proper initiation and implementation of rights to administrative and judicial reviews, hearings, and writs;
3. Improper use of seclusion or restraint, including failure to routinely utilize preventive alternative interventions and/or to follow CMS, Title 22, and Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6) requirements for seclusion and restraint orders, use, and monitoring;
4. Occurrence of significant quality of care or safety issue or critical incident requiring LAC DMH investigation and prompt corrective action by the facility;
5. Failure to meet documentation and treatment guidelines, as specified in Section I.F. and Appendix H of this document, by established deadlines;
6. Failure to notify LAC DMH of significant occurrence(s) or to submit reports as required by LAC DMH within 30 days after end of reporting period;
7. Failure to provide whatever mental health treatment, care, and referrals involuntarily detained persons require for the full period that they are held; and,
8. Failure to notify the Los Angeles County DMH of any changes that may affect its conformance with the criteria for designation.

C. The Los Angeles County Director of Mental Health may withdraw approval of a designated facility's authorization of an individual to exercise its delegation of authority under the following circumstances:

1. Transfer to an assignment where such authority is unnecessary;
2. Failure to abide by all provisions in the WIC Division 5 and accompanying regulations, and by LAC DMH policies concerning treatment, evaluations, patients' rights, and due process;
3. Inappropriate use or abuse of the involuntary detention authority, including improper conduct during evaluations initiated on or off facility premises;
4. For failure to meet criteria for professional staff membership and clinical privileges for involuntary detention set forth by the facility;
5. For failure to properly and competently implement, complete and document evaluation activities, 5150 applications, and/or verbal or written advisements and logs for 72-hour detention as required in WIC Section 5150(f)-(h) and/or in LAC DMH LPS Guidelines;

6. For loss of professional license for any reason; and,
7. For leaving facility employment.
8. In the event the individual is seeking 5150 detention authority at a single designated facility and involuntary detention authority has been previously withdrawn or suspended at that or any other designated facility, the LAC DMH Director may, in his or her sole discretion, withhold approval of the individual's involuntary detention authority at the facility, and notify the facility of the action taken.
9. When in the judgment of the LAC DMH Director, it is required by community needs.

D. The Los Angeles County Director of Mental Health may reinstate approval of a facility's authorization of a qualified hired, rehired or returning individual to exercise its delegation of authority under the following circumstances:

1. Individual left facility/professional staff for reasons not related to any disciplinary action for which involuntary detention authority was suspended or withdrawn during the prior authorization period; **and**;
2. Individual left facility/professional staff for no longer than six months and the Individual's written and signed agreement with the facility and LAC DMH has not expired, **or**,

Individual left facility/professional staff for no longer than three years and the last authorization period was of at least three years duration. [Also See Guidelines item II.C.2.]
3. If the written and signed agreement has expired, the individual left facility/professional staff for longer than six months, and the person's last LPS authorization was of less than three years duration, the individual takes the LAC DMH-approved LPS Detention Authorization Training Course and written examination the next time it is offered. No reinstatement of 5150 detention authority will be granted until the individual has passed the written examination.
4. When in the judgment of the LAC DMH Director, it is required by community needs.

E. Should the Los Angeles County Director of Mental Health withdraw his or her designation of a facility, or should the Los Angeles County Director of Mental Health withdraw the approval of a designated facility's 5150 detention authorization of an individual, the following procedures shall take place:

1. Except as described below in respect to emergencies, the Los Angeles County Director of Mental Health shall notify the facility of his or her intention not less than 30 days in advance of taking the action. The notification will specify the reasons for which the action is being taken.
2. The facility may submit to the Los Angeles County Director of Mental Health a written demand for review within 14 days of receiving the notice of intention. In support of its written demand, the facility may submit written documentation or other proof controverting the specification made in the notice of intention. If the facility wishes to make an oral presentation or present witness to controvert the specifications in the notice of intention, its written demand may also request a meeting at which such oral presentation can be made.
3. If a request for a meeting for an oral presentation is made, the meeting shall be held not less than five nor more than ten days from the date on which the facility demanded the review. In no event shall the meeting take place more than 25 days after the notice of intent to withdraw the designation was received by the facility.
4. The meeting at which the facility makes its oral presentation shall be attended by the Los Angeles County Director of Mental Health, or his or her designee, and such other representatives as designated by the LAC DMH Director in writing to the facility administrator. The meeting may be attended by the facility administrator and Chief Medical Officer and such others as they designate in writing to the LAC Director of Mental Health. The facility may make oral presentations that are pertinent to the specifications contained in

the notice of intent. A reasonable period of time, as determined by the LAC Director of Mental Health or his or her designee, shall be permitted for the facility's oral presentation.

5. The Los Angeles County Director of Mental Health shall consider all written, oral and other information submitted by the facility. The LAC Director of Mental Health shall notify the facility in writing of his or her final decision not later than 29 days from the facility's receipt of the notice of intention.

F. If in the judgment of the Los Angeles County Director of Mental Health, an emergency or threat of harm to consumers exists, he or she may suspend the authority of the facility to involuntarily detain or treat under the LPS Act or the approval of a designated facility's authorization of an individual. Such a suspension may be made during the pendency of a notice of intention, as described above, or for such periods of time during which the LAC Director of Mental Health judges the emergency or threat to exist.

1. The facility may request a review immediately or within 14 days of receiving the written notice of emergency suspension, such review to be held within 3 working days from the date on which the facility demanded the review, unless another mutually agreeable time, not to exceed 14 days from the date on which the facility demanded the review, is set.

CALIFORNIA CODE OF REGULATIONS SECTION 663. INPATIENT STAFFING

Inpatient services shall be under an administrative director who qualifies under Section 620(d), 623,624,625 or 627. In addition to the director of the service, the minimum professional staff shall include a psychiatrist if the administrative director of the service is not a psychiatrist, who shall assume medical responsibility as defined in Section 522; a psychologist, social worker, registered nurse, and other nursing personnel under supervision of a registered nurse. Nursing personnel shall be present at all times. Physicians, psychiatrists, registered nurses and other mental health personnel shall be present or available at all times. Psychologists and social workers may be present on a time-limited basis.

Rehabilitation therapy, such as occupational therapy, should be available to the patients.

The minimum ratio of full-time professional personnel to resident patients shall be as follows:

<i>Personnel</i>	<i>Ratio per 100 Patients</i>
<i>Physicians</i>	<i>5</i>
<i>Psychologists</i>	<i>2</i>
<i>Social Workers</i>	<i>2</i>
<i>Registered Nurses</i>	<i>20</i>
<i>Other Mental Health Personnel</i>	<i><u>25</u></i>
<i>Total</i>	<i>54</i>

**STRUCTURAL AND EQUIPMENT REQUIREMENTS TO ENSURE PATIENTS' RIGHTS
PURSUANT TO WIC SECTION 5325 and 5325.1**

1. The facility shall have sufficient indoor storage space for each patient per WIC Section 5325.
2. A sufficient number of phones shall be available for patient use in locations which ensure confidential conversations, pursuant to WIC Section 5325.
3. The facility shall operate a canteen, shop or vending machine accessible to the patients or have other means of providing patients with the opportunity to purchase incidentals regularly.
4. The patient bathrooms shall be constructed to ensure privacy, as afforded patients by WIC Section 5325.1.

**Welfare and Institutions Codes § 5250, 5256, 5260, 5270
Required Notice to Superior Court**

The Office of the Counselor in Mental Health (OCMH) (323) 226-2911, 226-2912 for the Los Angeles Superior Court has been given the responsibility for conducting facility based Certification Review and Medication Capacity hearings as a part of protecting a person's due process rights. The OCMH is required by Welfare and Institutions Code Section 5256 to schedule a certification review hearing within four days of a person being placed on either a 14-day hold and/or 30 day hold and within 72 hours of the Medication Capacity petition being received by the court. The hearings are conducted at the facility where the person is being detained and treated. Failure to conduct these hearings within the required time frames can and has led to persons being released from the certification and/or permitted to refuse their medication.

Your facility **MUST NOTIFY** OCMH:

- When placing a person on a 14-day hold, Welfare and Institutions Code Section 5250;
- When placing a person on an additional 14-day hold, Welfare & Institutions Code Section 5260;
- When placing a person on a 30-day hold, Welfare and Institutions Code Section 5270;
- When persons on 14-day or 30-day holds are placed on voluntary status, or are discharged prior to the certification review hearing.
- When petitioning for a Medication Capacity hearing, to insure receipt of the petition by the court.
- When the person for whom a Petition for Medication Capacity hearing is scheduled has signed voluntary, or has been discharged prior to the hearing.

Notification to OCMH must be made as soon as a person is placed on a hold. During the week the holds should be called in as they occur. **They should not be held and called into the OCMH at the end of the day or held until the next morning.** Holds placed on Friday after 5:00 p.m. Saturday, Sunday, or holidays must be phoned in the morning of the next business day. **Failure to Notify OCMH promptly may result in Certification Review and/or Medication Capacity hearings not being done within the required time frames.** (NOTE: Scheduling for the next day begins at noon. Holds that are called in late are noted on the record and that information is provided to the Court in the event a Writ is requested by the patient, and the hearing was not scheduled timely)

Your facility **MUST ALSO NOTIFY** OCMH when:

- Prior to a certification review hearing, the patient signs in voluntarily;
- Prior to a certification review hearing, the patient is discharged from the facility;
- Prior to a Medication Capacity hearing, the patient starts taking medication.

Changes in a patient's status must also be called into OCMH as they occur. They should not be held and called in at the end of the day or held until the next morning. Changes in patient's status occurring Friday after 5:00 p.m. Saturday, Sunday, or holidays must be phoned in the morning of the next business day. Failure to Notify OCMH of these changes in a patient's status

causes them to be scheduled unnecessarily. This may result in Certification Review and/or Medication Capacity hearings, for other patients in your facility and/or other facilities, not being done within the required time.

I. Current Procedures for LPS Testimony

August 8, 2000

II. WRIT OF HABEAS CORPUS

- I. Individuals on 14 day holds, additional 14 day holds, 30-day holds, and temporary conservatorships may file petitions for Writs. The Court calendars the hearing within two judicial days of the filing.
 - A. The Designated facility:
 1. Must inform the **treating psychiatrist/psychologist or appropriate designee** within ½ working day when a patient files a petition.
 2. May request, on behalf of **the treating psychiatrist/psychologist or appropriate designee**, that the Court moves the hearing forward by one day.
 - a) This request must be made on the day the petition is filed by informing the Hearing Officer or by calling (323) 226-2911
 - b) A hearing can never be extended beyond two judicial days after the filing without a court order.
 - II. ***The patient (petitioner) and the treating psychiatrist/psychologist or appropriate designee are required to be present at the Writ hearing:***
 - A. **The Designated Facility (respondent):**
 1. Must ensure that the patient and the patient's medical record arrive at the court no later than 8:15 a.m. on the date of the hearing, unless the facility requests (by calling the Mental Health Counselor's office 323-226-2911) and receives specific instructions for an alternative time from an officer of the Court. This gives the Public Defender, who represents the patient, time to interview the patient and review the medical record.
 2. Must produce testimonial evidence in support of the hold, e.g. the treating psychiatrist/psychologist or appropriate designee.
 - B. **The Treating Psychiatrist/Psychologist or Appropriate Designee:**
 1. Must arrive at the court no later than 8:30 a.m. on the date of the hearing, unless the facility requests (by calling the District Attorney's office 323-226-2936) and receives specific instructions for an alternative time from an officer of the Court. This gives the District Attorney time to interview the **treating psychiatrist/psychologist or appropriate designee** and prepare the case.
 2. Must register at the sign-in desk located in the hall between the entrance and the large waiting room.
 3. After signing in, must go to the District Attorney's Office, located on the first floor off of the main waiting area at the door adjacent to the pay phones, to prepare the case.
 4. Must identify him/herself to the receptionist in the Office of the District Attorney and wait to meet with an available Deputy District Attorney.
- III. The Hearing

A. The hearing is held at: The Superior Court

Mental Health Departments
1150 North San Fernando Road
Los Angeles, California 90065

The hearing is held in Department 95B only when all parties are ready to proceed.

- The hearing is called a de novo hearing i.e. the judicial officer may hear testimony on all criteria listed on the certification, not just the ones where probable cause was found.

- All parties are sworn to tell the truth.
- The finding of proof is by a “preponderance of the evidence.”
- The hearing is transcribed by an official court reporter.
- The treating psychiatrist/psychologist or appropriate designee and then the patient and other witnesses will each be questioned by both the Public Defender and the District Attorney.
- The hearing may last up to 1-½ hours, depending on the issues.
- Both parties must be present for the entire hearing, unless excused by the Court.
- A decision is made by the judicial officer at the end of the hearing, i.e. the patient is either held for the remainder of the hold period or released from the hold.
- In either case the patient must return to the facility either to remain for the duration of the hold or to go through proper discharge procedures.

IV. THE TREATING PSYCHIATRIST/PSYCHOLOGIST OR APPROPRIATE DESIGNEE AND PATIENT ARE NOT REQUIRED TO APPEAR FOR THE HEARING IF:

- THE PATIENT HAS BEEN DISCHARGED
- THE PATIENT HAS CONSENTED TO VOLUNTARY HOSPITALIZATION WITH CONCURRENCE OF THE PUBLIC DEFENDER
- The patient has withdrawn the petition and their legal counsel has accepted the withdrawal
- The patient refuses to attend the hearing

A. In such cases the following telephone notifications must be made by the designated facility in the manner noted below no later than 9:00 a.m. on the date of the hearing.

1. If the patient has been discharged, the **designated facility** must call all of the following in this order:
 - a) Public Defender’s Office (323) 226-2932
 - b) Department 95B (323) 226-8426 (A message may be left)
2. If the patient has consented to voluntary hospitalization, refuses to attend the hearing, or has withdrawn the petition, the **designated facility** must call:
 - a) Public Defender’s Office: (323) 226-2932
(The patient must be available to talk to the Public Defender at the time that the call is made. Telephone messages are not accepted.)
3. After the patient has spoken with the Public Defender and the Public Defender has signified to the facility that the hearing may be cancelled, the facility must contact:
 - a) Department 95B (323) 226-8426 (A message may be left)

Note: Problems encountered in making contact with any of the above parties should be reported to the Office of the Counselor in Mental Health at (323) 226-2911.

Appendix 1: FAQs [Not Attached]

Appendix 2: Sample forms, notices, and letters [Not Attached]

CONSERVATORSHIPS:

- I. Requests to LAC DMH for petition for establishment of an LPS conservatorship must be made by the attending member of the professional staff who is caring for the individual. Documentation accompanying the request must include the medical record face sheet for the current admission, and establish the following:
 - A. An appropriate DSM diagnosis, supported by sufficiently complete clinical assessment. Diagnoses not considered appropriate for referral include:
 - Dementia (as a primary diagnosis)
 - Psychosis NOS
 - Developmental Disability (as primary diagnosis)
 - Substance abuse (as primary diagnosis)
 - B. That the individual was a resident of Los Angeles County prior to admission, or meets the HUD definition of homelessness: an individual continually homeless (sleeping in a place not meant for human habitation) for a year or more or having had at least four (4) episodes of homelessness in the last three (3) years.
 - C. That the individual meets state and locally established criteria for access to public funding.
- II. **The initial application for LPS Conservatorship is generally:**
 - A. *Initiated* by **5150 detention authorized attending staff** of LPS designated facilities and agencies,
 - B. *Signed* by the **treating physician**, and **“the professional person in charge”** of the designated facility or his/her designee,
 - C. *Mailed or faxed* by the **facility** to the Office of the Public Guardian (Petitioner), and
 - D. *Sent by* the **Public Guardian** to the Office of County Counsel (Attorney for the Petitioner).
(Note: *The LPS Act allows initiation of conservatorship in an outpatient setting.*)
- III. **The Office of County Counsel**
 - A. *Petitions* for a hearing.
 - B. *May request* that the Public Guardian be appointed temporary conservator if the patient is on a hold. If the Temporary Conservatorship (T-Con) is granted, the hold is extended up to 30 days. With Court approval the T-Con can be extended up to six months.
 - C. *Sets a hearing date* between fifteen and thirty days after the date of the referral.
 - D. *Issues the following “packet” of documents*, and sends them *with the applications for conservatorship and temporary conservatorship submitted by the attending physician* of the proposed conservatee to the Office of the Clerk of the Court for the Judge’s signatures.
 1. Notice of Hearing for Conservatorship
 2. Citation to the Patient to Appear in Court for Hearing
 3. Order Appointing the Public Guardian as Temporary Conservator
 4. Temporary Letters of Conservatorship
(Note: *Applications for conservatorship shall be typewritten and legible.*).
- IV. **The Judge**

The Judge determines whether to accept or reject the application for T-Con.

 - A. **If the application is rejected by the Judge:**
 1. The Office of the Clerk of the Court notifies the Office of the County Counsel.
 2. The County Counsel notifies the Public Guardian.
 3. The Public Guardian notifies the **designated facility/referring party** of the proposed conservatee.
 - B. **If the application is accepted by the judge:**

The judge may or may not grant temporary conservatorship.

 1. The Office of the Clerk of the Court:
 - a) Assigns a case number, develops a case folder, and enters the case into the Court’s automated case management system.
 - b) Sends the signed Notice of Hearing for Conservatorship, the Citation to the Patient to Appear in Court for Hearing, and the Temporary Letters of Conservatorship back to the Office of the County Counsel.

2. The Office of the County Counsel:
 - a) Mails the Notice of the Hearing to the State Department of Health
 - b) Mails a Notice of Hearing and Proof of Service to the people (usually 1st degree relatives) listed on the treating psychiatrist/psychologist or appropriate designee's Application for Mental Health Conservatorship.
 - c) Sends the Citation to the Patient to Appear in Court.
 - d) Sends the Petition to the Public Guardian and to the facility holding the patient.
 - e) Sends the Temporary Letters, if applicable, to the Public Guardian.
 - f) Hand delivers all paperwork to the Public Defender (attorney for the proposed conservatee) when the signed Letters of Temporary Conservatorship come back with the assigned court case number. The Public Defender will counsel the patient on the date of the hearing to determine whether to contest the establishment of the conservatorship.

V. T-Cons

Once the Public Guardian is appointed temporary conservator, the Office of the Public Guardian mails a Notice to Detain and Treat to the **designated facility** that initiated the conservatorship.

Note that the patients with T-Cons can be moved by the temporary conservator.

VI. During the Investigation for Conservatorship:

- A. The Public Guardian may speak with the **treating psychiatrist or psychologist** usually by telephone to obtain information regarding the patient that will be used to determine the recommendation of the Public Guardian (the Petitioner) to the County Counsel (the attorney for the Petitioner) regarding conservatorship. The doctor should contact the Public Guardian to assure the Public Guardian has relevant and accurate information.
- B. When the Public Guardian recommends against conservatorship, the court generally accepts the recommendation, unless the **treating psychiatrist or psychologist or appropriate designee** or a family member requests to be heard on the issue of grave disability, in which case the hearing will proceed as scheduled. The doctor should seek out County Counsel before the hearing if (s)he is aware that there is a "no" recommendation.
- C. **Notification of the Treating Psychiatrist/Psychologist or Appropriate Designee Regarding the Hearing Date:**
 1. Initial Conservatorship: the **facility** where the proposed conservatee is being treated must notify the **treating psychiatrist/psychologist or appropriate designee**.
 2. Reappointment: **A Conservatorship Re-Evaluation - Physician Declaration** form is sent approximately six weeks prior to the hearing date to the **facility** where the conservatee resides. The **treating psychiatrist/psychologist or appropriate designee** must complete and sign this form with information documenting that the conservatee remains gravely disabled. The doctor may still be required to come to court if the reappointment is contested. The hearing date for reappointment is at the top of this form.

VII. The Hearing

- A. In the event of a contested hearing, the **treating psychiatrist/psychologist or appropriate designee** of the proposed conservatee is expected (by precedent and notice or subpoena) to appear at the hearing to give testimony regarding the patient's alleged grave disability (inability to provide for food, clothing and/or shelter) due to a mental disorder.
- B. The **treating psychiatrist/psychologist or appropriate designee** may wish to call County Counsel (323) 226-2927 between 2:00 p.m. and 5:00 p.m. on the day prior to the hearing:
 1. to ask any questions concerning the hearing,
 2. to request changes of the court date,
 3. to provide additional information or consult regarding the content/expected focus of the testimony, or
 4. to determine if the hearing will be contested.
- C. The doctor will be called as soon as it is learned that his/her appearance will not be required.

- D. Conservatorship Petitions are heard at: **The Superior Court**
Mental Health Departments
1150 North San Fernando Road
Los Angeles, California 90065
In
- Department 95A for adults, and in
 - Department 95B for minors.

VIII. Transportation to Court

The Public Guardian will not arrange transportation of the proposed conservatee to the court. The designated facility must provide transport and escort to and from, and supervision of patients at, all mental health-related court hearings.

IX. ARRIVAL TIME

- A. THE **TREATING PSYCHIATRIST/PSYCHOLOGIST OR APPROPRIATE DESIGNEE** (PERCIPIENT WITNESS) FOR THE PROPOSED CONSERVATEE AND OTHER INTERESTED PARTIES ARE REQUIRED TO ARRIVE AT DEPARTMENT 95 NO LATER THAN 8:30 A.M. THE REQUIREMENT TO ARRIVE PRIOR TO COURT BEING IN SESSION IS TO GIVE COUNTY COUNSEL AN OPPORTUNITY TO DISCUSS ISSUES REGARDING THE CASE WITH THE WITNESSES PRIOR TO THE HEARING.
- B. THE **PROPOSED CONSERVATEE** MUST ARRIVE NO LATER THAN 8:15 A.M. THIS GIVES THE PATIENT TIME TO MEET WITH THE PUBLIC DEFENDER PRIOR TO THE HEARING.
- C. **SIGN-IN:** ALL PARTIES MUST REGISTER AT THE SIGN-IN DESK LOCATED IN THE HALL BETWEEN THE ENTRANCE AND THE LARGE WAITING ROOM AND WAIT IN THE LOBBY UNTIL THE COURT OPENS.

X. The Courtroom:

The bailiff announces when everyone having business with the court can enter the courtroom.

- A. The **treating psychiatrist/psychologist or appropriate designee** for the proposed conservatee must check-in with the Bailiff who has a sign in sheet. (S)he must remain at court, in an area reserved for doctors, where they may work and have telephone and modem access, until such time as their duties in court are completed.
- B. By court order no one is to approach the counsel table (where the attorneys sit to present their case to the court) while court is in session.
- C. (If the **treating psychiatrist/psychologist or appropriate designee** arrives after court is in session, (s)he must make let the bailiff know (s)he has arrived.)

(Note: *The court does not permit persons in the courtroom to read newspapers, books, etc...*)

X. The Calendar is called:

- A. First Call (9:30 a.m. – 10:45 a.m.): The court calls the calendar, goes through the list of cases (alphabetically, by proposed conservatee's last name), scheduled for that day. Those matters that can be handled summarily are handled at that time. All other matters are put over to "second call," meaning that they will be called when ready after the entire calendar has been "called" once. If there is a time problem, check with the clerk, and the court will attempt to give priority to a "good faith" request.
- B. Second Call (10:45 a.m. – end of court session: Matters that require testimony are always put on "second call." Matters for which the lawyers are not yet ready at "first call" are also put on "second call." Thus it is impossible to say with any certainty which matters will actually go to testimony until the lawyers are ready to proceed.
- C. **If the Public Defender decides to contest the proposed conservatorship, the treating psychiatrist/psychologist or appropriate designee** must remain in court until the hearing commences (often longer than 2 hours).

It is suggested that cases should be heard first if there is a live witness present.

Appendix 1: FAQs [Not Attached]

Appendix 2: Sample forms, notices, and letters [Not Attached]

Appendix D

WIC SECTIONS 5150(f)-5150(h)

5150(f). (1) Each person, at the time he or she is first taken into custody under this section, shall be provided, by the person who takes him or her into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing. The information shall be in substantially the following form:

My name is _____.

I am a _____
(peace officer, mental health professional)

with _____
(name of agency)

You are not under criminal arrest, but I am taking you for an examination by mental health professional at _____
(name of facility)

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

(2) If taken into custody at his or her own residence, the person shall also be provided the following information:

You may bring a few personal items with you which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You may make a phone call and leave a note to tell your friends or family where you have been taken.

(g) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (f) which shall include all of the following:

- (1) The name of person detained for evaluation.
- (2) The name and position of the peace officer or mental health professional taking the person into custody.
- (3) The date the advisement was completed.
- (4) Whether advisement was completed.
- (5) The language or modality used to give the advisement.
- (6) If the advisement was not completed, a statement of good cause, as defined by regulations of the State Department of Health Care Services.

(h) (1) Each person admitted to a facility designated by the county for evaluation and treatment shall be given the following information by admission staff at the evaluation unit. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available to the person in English and in the language that is the person's primary means of communication. Accommodations for other disabilities that may affect communication shall also be provided. The information shall be in substantially the following form:

[Also Refer to DHCS 1802 (01/2014) form "Involuntary Patient Advisement (To Be Read And Given To The Patient At Time Of Admission)".]

My name is _____

My position here is _____

You are being placed into the psychiatric unit because it is our professional opinion that as a result of mental health disorder, you are likely to (check applicable) :

___ harm yourself

___ harm someone else

___ be unable to take care of your own
food, clothing, and housing needs

We believe this is true because

_____ (list of the facts upon which the allegation of dangerous or gravely disabled due to mental health disorder is based, including pertinent facts arising from the admission interview)

You will be held for a period up to 72 hours. During the 72 hours you may also be transferred to another facility. You may request to be evaluated or treated at a facility of your choice. You may request to be treated or evaluated by a mental health professional of your choice. We cannot guarantee the facility or mental health professional you choose will be available, but we will honor your choice if we can.

During these 72 hours you will be evaluated by the facility staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours, you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided to you free of charge.

If you have questions about your legal rights, you may contact the county Patients' Rights Advocate at _____ . (phone number for the county Patients' Rights Advocacy office)

Your 72-hour period began _____ (date/time)

This does include weekends or holidays. (d) For each patient admitted for evaluation and treatment, the facility shall keep with the patient's medical record a record of the advisement given pursuant to subdivision (h) which shall include all of the following:

- (1) The name of person performing the advisement.
- (2) The date of the advisement. .
- (3) Whether the advisement was completed.
- (4) The language or modality used to communicate the advisement.
- (5) If the advisement was not completed, a statement of good cause.

If the advisement was not completed at admission, the advisement process shall be continued on the ward until completed. A record of the matters prescribed by subdivisions (f), (g), and (h) shall be kept with the Patient's medical record.

Appendix E

PROCEDURE FOR LAC DMH 5150 DETENTION AUTHORIZATION INITIAL APPROVAL OF PROFESSIONAL STAFF OF DESIGNATED FACILITIES

Category:	I. Residents	II. Professional Staff with Admitting Privileges	III. Professional Staff without Admitting Privileges
Prerequisites:	<ol style="list-style-type: none"> 1. Must have completed or be in an approved psychiatric training program with an LAC LPS Designated Facility. 2. Must have the ability to admit to an LAC LPS Designated Facility. 	<ol style="list-style-type: none"> 1. Must be on the Professional Staff of an LAC LPS Designated Facility. 2. Must comply with facility proctoring requirements and probationary reviews (if applicable). 	<ol style="list-style-type: none"> 1. Must comply with facility proctoring requirements and probationary reviews (if applicable). 2. Must be on the Professional Staff of an LAC LPS Designated Facility. 3. Must have a minimum of three years experience as a Licensed Mental Health Professional – i.e., 3 years experience post-licensure in an acute mental health setting. (Exception: Only by appeal to LAC DMH Director).
Requirements for Initial Approval:	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must attend an LAC DMH-approved 5150 Detention Authorization Training Course. 3. Must achieve a passing score on an LAC DMH-approved written examination. 	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must take and achieve a passing score on an LAC DMH-approved written examination. 	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must attend an LAC DMH-approved 5150 Detention Authorization Training Course. 3. Must take and achieve a passing score on an LAC DMH-approved written examination.
Frequency of Testing:	July of each year and/or by special arrangement.	Quarterly testing (and by special arrangement).	Quarterly training (minimum) and quarterly testing (and by special arrangement).
Re-testing Procedure after Failure to Pass Written Examination: *Examinee(s) ineligible to re-test x1 year if exam is voided as a consequence of impropriety.	May re-test at a subsequent scheduled testing session or at a scheduled LAC DMH-approved 5150 Detention Authorization Training Course. [Exception: See “Category” column on Re-Testing ineligibility.]*	May re-test at a subsequent scheduled testing session or attend and retest at a scheduled LAC DMH-approved 5150 Detention Authorization Training Course. [Exception: See “Category” column on Re-Testing ineligibility.]*	May re-test at a subsequent scheduled testing session or at a scheduled LAC DMH-approved 5150 Detention Authorization Training Course. [Exception: See “Category” column on Re-Testing ineligibility.]*

Revised 3/04, 6/04 & 2/14/11; Reviewed 7/10 & 5/14

Appendix F

PROCEDURE FOR LAC DMH 5150 DETENTION AUTHORIZATION RENEWAL OF APPROVAL OF PROFESSIONAL STAFF OF DESIGNATED FACILITIES

Category:	I. Residents	II. Professional Staff with Admitting Privileges	III. Professional Staff without Admitting Privileges
Prerequisites:	<ol style="list-style-type: none"> 1. Must have completed or be in an approved psychiatric training program with an LAC LPS Designated Facility. 2. Must have the ability to admit to an LAC LPS Designated Facility and have been granted 5150 Detention Authorization competency based on supervision. 	<ol style="list-style-type: none"> 1. Must be on the Professional Staff of an LAC LPS Designated Facility. 2. Must comply with facility proctoring requirements and probationary reviews (if applicable). 	<ol style="list-style-type: none"> 1. Must comply with facility proctoring requirements and probationary reviews (if applicable). 2. Must be on the Professional Staff of an LAC LPS Designated Facility. 3. Must have a minimum of three years experience as a Licensed Mental Health Professional – i.e., 3 years experience post-licensure in an acute mental health setting. (Exception: Only by appeal to LAC DMH Director).
Requirements for Renewal of Approval:	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must have demonstrated proper conduct and competency during evaluations and for 5150 applications initiated on or off facility premises, as required in LAC DMH LPS Guidelines, with no known LAC DMH LPS Designation Guidelines violations, for each prior specified authorization period. 	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must have demonstrated proper conduct and competency during evaluations and for 5150 applications initiated on or off facility premises, as required in LAC DMH LPS Guidelines, with no known LAC DMH LPS Designation Guidelines violations, for each specified authorization period. 	<ol style="list-style-type: none"> 1. Must submit an application and signed attestation completed in full. 2. Must have demonstrated proper conduct and competency during evaluations and for 5150 applications initiated on or off facility premises, as required in LAC DMH LPS Guidelines, with no known LAC DMH LPS Designation Guidelines violations, for each specified authorization period. <p>[Note: Also See Guidelines item II.C.2 and Section V.D.]</p>
Frequency of Testing:	N/A	N/A	N/A
Re-testing Procedure after Failure to Pass Written Examination:	N/A	N/A	N/A

Revised 3/04, 6/04, 2/14/11 & 6/29/15; Reviewed 7/10

BUSINESS AND PROFESSIONS CODE SECTION 650. CONSIDERATION FOR REFERRAL OF PATIENTS, CLIENTS, OR CUSTOMERS; VIOLATIONS; PENALTY

“Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt or acceptance by any person licensed under the division of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or co-ownership in or with any person to who these patients, clients, or customers are referred is unlawful.

The payment or receipt of consideration for services (other than the referral of patients) which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payor.

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or co-ownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee’s return on investment for that proprietary interest or co-ownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid need for the referral.

‘Health care facility’ means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Health Services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison.”

Appendix H
COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH
MONTHLY DATA REPORT FOR LAC DMH LPS DESIGNATION

Facility Name _____ Month _____ Year 20 _____

Completed by _____
Name Phone number FAX #

Licensed Psychiatric Beds and Census Data

of licensed beds _____; average daily census for month _____ (Psychiatric Units-Inpatients)
average length of stay _____; # of patient days for month _____ (Psychiatric Units-Inpatients)

PET Activity [Note: N/A for facilities without mobile team(s)]

Subtotals: # of off-site assessments resulting in 5150 hospitalization..... _____
of off-site assessments resulting in voluntary hospitalization.. _____
of off-site assessments referred to crisis stabilization 23 hr..... _____
of off-site assessments referred to outpatient services..... _____

Total # of off-site assessments completed:

Emergency Room Activity [Note: applies only to facilities with ERs, and to facility ER only]

of 5150s written in the ER and admitted to another hospital _____
[do not include # in the hospital admission #s]
of 5150s released from ER without admit to any hospital _____
of ER patients on 5150s placed on 5250s (14 day holds) in ER _____

Admissions (Psychiatric Units - Inpatients)

of Adult patients **admitted** on 5150s _____; # **admitted** on 5250s _____; # **admitted** on 5270s _____
Total # of admissions (Vol & Invol.) - **Adult** _____
of Minors **admitted** on 5585s _____; # **admitted** to Inpatient Unit on 5250s _____
Total # of admissions (Vol & Invol.) - **Under 18** _____
Total # of indigent patients admitted _____

LPS Information [To be completed by Facility]

of patients placed on 5250s (14 day holds) _____ on MH Units; _____ on Medical Units [GACH only]
of 5250 Probable Cause hearings held _____ on MH Units; _____ on Med. Units; _____ # of 5250 hearings upheld
of patients placed on 5270s (30 day holds) _____
of 5270 Probable Cause hearings held _____, # of 5270 PC hearings **upheld** _____
of writs filed _____; # of writs heard _____
of Riese hearings held _____; # of Riese hearings finding the client lacks capacity _____

Discharges (Psychiatric Units - Inpatients)

of discharges _____
of patients leaving AMA _____; AWOLs without return: # Vol. _____; # Invol. _____ [ATTACH Report]

Adverse Events

[ATTACH Summary of Event; or, ATTACH Copy of Report sent to DHS or DMH, for each Adverse Event.]

CIRCLE (O) Code letter for Age Group. CODE: (C) = Child [under 18], (A) = Adult [18-64]; (O) = Older Adult [65+]

of **deaths** [include deaths within 72 hours of discharge] of Psychiatric Unit patients from:
medical cause **C/A/O** _____; suicide **C/A/O** _____; homicide **C/A/O** _____; seclusion/restraints **C/A/O** _____; other **C/A/O** _____
of **critical incidents** related to seclusion/restraints (S/R) **C/A/O** _____ [exclude deaths]
of **critical incidents** related to physical/emotional abuse **C/A/O** _____ [exclude deaths, S/R, other injury]
of **critical incidents** related to serious injury **C/A/O** _____ [exclude deaths, S/R & abuse, include fractures, etc.]
of **critical incidents** related to other causes **C/A/O** _____ [exclude deaths and all incidents listed above,
include injuries to staff by patients, fires set and other major property damage by patients, Taser use]

DIRECTIONS: By the 10th of the following month, complete MDR Report and
FAX to (213) 738-4646, or **EMAIL** (encrypted for PHI) to: mczubiak@dmh.lacounty.gov.

COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH
MONTHLY DATA REPORT FOR LAC DMH LPS DESIGNATION – URGENT CARE CENTER

Facility Name _____ Month _____ Year 20__

Completed by _____
Name Phone number FAX #

Licensed Beds and Census Data

of client s availability _____; average daily census _____ (Psych. Urgent Care Center)
average length of stay _____ (hrs.) ; # of patient visits for month _____ (Psych. UCC- all ages)

Psychiatric UCC Activity [include all ages]

Subtotals: # of UCC assessments resulting in 5150 hospitalization _____
of UCC assessments resulting in voluntary hospitalization _____
of UCC assessments managed solely with crisis stabilization/23 hr. _____
of UCC assessments referred to outpatient services _____

Total # of UCC assessments completed: [all ages] _____

Emergency Room Activity [Note: applies only to facilities with ERs, and to facility ER only] - **N/A**

of 5150s written in the ER and admitted to another hospital - -
[do not include # in the hospital admission #s]
of 5150s released from ER without admit to any hospital - -

Admissions (to Psychiatric Urgent Care Center)

of Adult patients **admitted** to UCC on 5150s _____
Total # of admissions (Vol & Invol.) - **Adult** _____
of Minors (under 18) **admitted** to UCC on 5585s _____
Total # of admissions (Vol & Invol.) - **Under 18** _____
Total # of indigent patients admitted to UCC _____

LPS Information [To be completed by Facility] **N/A**

of patients placed on 5250s (14 day holds) - -
of patients placed on 5270s (30 day holds) - -
of 5250 Probable Cause hearings held - - ; # of 5250 PC hearings upheld - -
of 5270 Probable Cause hearings held - - ; # of 5270 PC hearings upheld - -
of writs filed - - ; # of writs heard - -
of Riese hearings held - - ; # of Riese hearings finding the client lacks capacity - -

Discharges (from Psychiatric Urgent Care Center)

of discharges _____
of patients leaving AMA _____ # of AWOLs without return _____ [ATTACH Report]

Adverse Events

[ATTACH **Summary of Event**, or, ATTACH **Copy of Report** sent to DHS or DMH, for each Adverse Event.]

CIRCLE Code **letter** for Age Group. **CODE:** (C) = **Child** [under 18]; (A) = **Adult** [18-64]; (OA) = **Older Adult** [65+]

of **deaths** [include deaths within 72 hours of discharge] of Psychiatric UCC patients from:
medical cause **C/A/O** _____; suicide **C/A/O** _____; homicide **C/A/O** _____; seclusion/restraints **C/A/O** _____; other **C/A/O** _____
of **critical incidents** related to seclusion/restraints (S/R) **C/A/OA** _____ [exclude deaths]
of **critical incidents** related to physical/emotional abuse **C/A/OA** _____ [exclude deaths, S/R, other injury]
of **critical incidents** related to serious injury **C/A/OA** _____ [exclude deaths, S/R & abuse, include fxs, etc.]
of **critical incidents** related to other causes **C/A/OA** _____ [exclude deaths and all incidents listed above,
include injuries to staff by patients, fires set and other major property damage by patients, Taser use]

DIRECTIONS: By the 10th of the following month, complete MDR Report and
FAX to (213) 738-4646, or **EMAIL** (encrypted for PHI) to: mczubiak@dmh.lacounty.gov.

Appendix I
Patients' Rights Training – Master Outline

I. Introduction

A. Sources of Patients' Rights Provisions

1. State Statutes
2. State Regulations
3. California Case Law
4. State Constitution
5. Federal Regulations
6. U.S. Constitution
7. County Department of Mental Health Policies/Culture
8. Hospital Policy

B. LPS

1. LPS Act
 - Intent
2. LPS-Designated Facility
 - Definition
 - Relationship to Local Department of Mental Health
3. 5150 Detention Authorized Individual
 - Definition
 - Process
 - Relationship to Local Department of Mental Health

C. Fundamental Concepts

1. Constitutional Rights
 - WIC 5325.1
 - Liberty
 - Privacy
2. Statutory Rights
 - WIC 5325
3. Capacity
4. Competent
5. Antipsychotic Medication
6. Informed Consent
 - Affirmed Agreement
 - Acquiescence
7. Confidentiality
 - WIC 5328
 - “Holder of Privilege”
 - Release of Information
 - With Consent
 - Without Consent
 - 5328 Exceptions
 - Abuse Reports
 - Tarasoff [client or credible informant]
8. Justification for Temporary Loss of Rights
 - Dangerousness
 - Civil Commitment
 - Criteria Provided in **LPS Act**
 - Professional Evaluation -- 72 hour holds; 1st & 2nd 14-day holds
 - Standard: Probable Cause
 - Involuntary detention process (see below)
 - Standard: Probable Cause
 - Denial of Statutory Rights
 - Criteria Provided in **CCR, Title 9**

- Seclusion and Restraint
 - ❑ Criteria Provided in **CMS Conditions of Participation and Health & Safety Code 1180**
 - ❑ Forced Administration of Antipsychotic Medication
 - ❑ Criteria Provided in **LPS Act**
 - Firearms/Weapons Prohibition
 - ❑ Criteria Provided in **WIC** (8100 et seq.)
 - ❑ Voluntary but dangerous persons; Tarasoff situations
 - ❑ Automatic – Involuntary Persons
 - ❑ Remedy Requires Adjudication
 - Lack of Capacity
 - Forced Administration of Antipsychotic Medication Regimen - Riese
 - ❑ Criteria Described in Riese v. St. Mary's Medical Center, 209 Cal.App.3d 1303
 - ❑ Adjudication
 - Standard: Clear and Convincing
 - Forced Administration of ECT
 - ❑ Criteria Described at WIC 5326.5 & 5326.7 (Standard discussed in Lillian F. v. Superior Court, 160 Cal.App.3d 314)
 - ❑ Adjudication
 - Standard: Clear and Convincing
 - Conservatorship
 - Probate
 - ❑ Potential Effect on Mental Health Treatment
 - LPS
 - ❑ Potential Effect on Mental Health Treatment
9. Due Process
- Notice of Rights
 - 5325 Rights
 - Right to Refuse Medication
 - Rights Related to Certification Review
 - Other (CMS)
 - Notice of "Rights Lost"
 - 5150 Advisement
 - Post-Admission Advisement for Involuntary Patients
 - Notice of Certification
 - Notice of Reason for Denying a Statutory Right
 - Notice of Reason for Initiating Seclusion/Restraint (CMS)
 - Administrative Proceedings
 - Certification Review
 - Capacity Hearing – Medication (Riese)
 - Independent Clinical Review
 - Roger S Hearing
 - Court Proceedings
 - Writ of habeas corpus
 - Riese Appeal (de novo)
 - T-con Riese
 - Regarding Capacity to Consent to ECT
 - Regarding the Need for Conservatorship
 - Challenges Related to a Conservator's Power or Choices
 - Regarding Post-Certification of an Imminently Dangerous Person
 - Regarding Appointment of A Proxy Decision Maker for Consent to a Medical Procedure

II. Practice and Process

A. Voluntary Admission

1. Applications for Voluntary Admission

- Adults
- Conservatees
- Minors

B. Involuntary Admission

1. 72-hour Hold for Evaluation and Treatment

- Application (WIC 5150, 5585) Document
- Pre-admission Assessment (WIC 5151)
- Counting Time
- Liability for Release Before the End of 72 Hours

2. 14-day and 30-day Certifications for Intensive Treatment

- Certification Criteria
- Certification Document
- Certification Review Mechanics
- Counting Time
- Transfer Issues
- Writ Testimony
- 5 Day Notice Requirement for Temporary LPS Conservatorships
- Writ Rights on Temporary LPS Conservatorships

3. 14-day Certification for Additional Treatment of Suicidal Persons

- Certification Criteria (WIC 5260)
- Affidavits

4. 180-day Postcertification for Intensive Treatment

- Postcertification Criteria (WIC 5300)
- Process for Initiating Postcertification
- Physician Testimony

C. Involuntary Treatment (Regular Course)

1. Antipsychotic Medication

- Overview of Riese v. St. Mary's Medical Center
- Capacity Criteria
- Preparing the Riese Petition
- Riese Hearing Mechanics
 - Preliminary Issues
 - Testimony
 - Evidence

2. Convulsive Treatment

- Application of WIC 5326.7
- Professional Impression/Verification of Capacity
- Pre-hearing Communications with Court
- Preparing the Petition for a Hearing on Capacity

D. Special Interventions

1. Emergency Medications

- Definition of Emergency [WIC 5008(m) and CCR, Title 9, 853]
- Limits on the Use of Medication in an Emergency [WIC 5332(d) and CCR, Title 9, 853]
 - Antipsychotic Medications
 - Other
- Writing Orders for Emergency Administration of Antipsychotic Medication
 - Issues Related to PRN IM Orders

- 2. Seclusion and Restraint
 - Conditions for Use
 - Initiating versus Ordering Seclusion/Restraint
 - Orders
 - Persons Authorized to Order
 - Content of Order
 - Time Limits
 - Role of Treating Physician
 - Face-to-face Evaluations by A Physician/Psychologist/Physician Assistant/
Trained RN
 - Timing
 - Purpose
 - Treatment Planning
 - Ending R/S at the Earliest Time
 - Overview of Care and Attention Paid to the Person in Restraint or Seclusion
- 3. Denial of Statutory Rights
 - Rights Affected
 - Justifications for Denial (CCR, Title 9, 865.2)
 - Person Authorized to Initiate Denial [CCR, Title 9, 865, CCR, Title 22,
70577(k)(1)(l)(2), CCR, Title 22, 71507(b)]
 - Documentation Requirements
 - Review at 30 Days

**COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH
EMERGENCY OUTREACH BUREAU**

PMRT-PET Partnership: Nine Point Plan – July 2014

The following points provide the general framework of the Public-Private Partnership designed to improve mobile psychiatric response to residents of Los Angeles County.

For reference purposes, PMRT refers to Psychiatric Mobile Response Team and is the Department of Mental Health (DMH) public resource; PET refers to facility-based Psychiatric Evaluation Team and is the private resource in this partnership.

Each Service Area (SA) has an identified resource base of 5150 detention authorized mobile service providers based on DMH capacity and private mobile resources. The following points address the essential components of the Partnership.

1. PET may respond to all SAs for their contracted HMO or private insurance clients.
2. PET may develop contractual agreements with medical hospital emergency rooms in all Service Areas for purposes of conducting 5150 evaluations for indigent, Medi-Care, and Medi-Cal beneficiaries.
3. PET will provide Emergency Outreach Bureau (EOB) with a list of medical hospital emergency rooms in which they have a contractual agreement to provide 5150 assessments. PET may provide assessments in hospital floors or units.
4. PET will assume responsibility to hospitalize all clients that they determine to need inpatient treatment on the basis of 5150 evaluation.
5. ACCESS will monitor and dispatch all field calls to Adult Protective Services, schools, and police stations. PET will not respond to these sites unless approved by ACCESS on a case-by-case basis.
6. PET will be restricted from the DCFS and Juvenile Probation population in all settings, including but not limited to, hospitals, foster/group homes, family, and schools. In situations where PET receives the initial request for service, PET will contact ACCESS for direction.
7. PET staff will be limited to affiliation with only one designated facility. PET staff will be employees of the designated facility.
8. Designated facility will not subcontract PET services.
9. PET may respond to clients in Board and Care homes covered by private insurance, but not those with Medi-Cal, unless specifically approved on a case-by-case basis by ACCESS. PET may respond to clients with Medicare provided they have **Part A & B** coverage.

COUNTY OF LOS ANGELES - DEPARTMENT OF MENTAL HEALTH

EMERGENCY OUTREACH BUREAU

PMRT-PET Operations

**Operational Grid for Los Angeles County-Permitted 5150 Activity
For 5150 Detention Authorized Individuals**

This is a working document subject to modification.

INDIVIDUAL WITH 5150 DETENTION AUTHORITY AFFILIATION:	DMH PMRT	Approved Contracted & Directly Operated Outpatient Programs (incl. FSPs, co-located, UCCs, etc.)	Private Mobile PET	Authorized Hospital Staff With Admitting Privileges	Authorized Members Of Hospital Staff Without Admitting Privileges Or Mobile Resources	DMH/Law Enforcement Programs	Mental Health (MH) Psychiatrist in Directly Operated Facility*
CLIENT LOCATION:							
Board & Care: Medi-Cal	X	Program-Specific Sites (Program-specific exceptions as arranged)				X	Program-Specific Sites (Program-specific exceptions as arranged)
Board & Care or Private Home: Private Insurance or Medicare A & B	X		X	X		X	
Police Stations	X					X	
Private Home: Medi-Cal	X		X	X		X	
Schools	X					X	
DCFS or Probation/Minor	X					X	
APS Referrals	X					X	
SNF or IMD	X		X	X		X	
Non-designated Hospital ER	X (No upper floors except DCFS or Probation)		X	X		X	
Designated Hospital ER	X (Only if patient is age inappropriate and indigent & after initial evaluation by hospital staff)		X (Own ER & contracted ERs only)	X (Own ER only)	X (Own ER only)		
Designated Hospital - medical floor or inpatient unit (except for DCFS minors)			X	X	X		
Designated Hospital - medical floor or inpatient unit for DCFS minors only	X						
Non-Designated Facilities accepting "voluntary" psychiatric patients only	X (Indigent only)		X (Medi-Cal or private insurance)				
Other Settings	X					X	

(Revised 4/27/15)

***Note:** MH Psychiatrists and Supervising Psychiatrists are LPS authorized during their work in DMH directly operated programs to detain individuals under WIC 5150. This should occur in instances in which probable cause for such detention exists. DMH MD authorizations do not require LPS Applications and Attestations. DMH may extend such authorization to other license categories.

FAQs regarding changes in LAC DMH procedures related to WIC 5150 detention

Revised September 28, 2015

Part 1: LPS designated facilities

Question 1: How does DMH determine the 72 hour involuntary admission start time associated with WIC 5150 detention?

Answer 1: DMH considers the 72 hour involuntary evaluation and treatment admission associated with WIC 5150 detention to start when the individual is involuntarily detained in an LPS designated facility, as indicated by the time noted on the admission to that facility.

Question 2: When new clinical or procedural issues arise in the care of individuals detained under WIC 5150, will DMH provide guidance and resources to help with resolution of the issues?

Answer 2: Yes. DMH is committed to actively helping to resolve clinical and procedural issues that may arise in connection with individuals detained under WIC 5150.

Question 3: When a non-LPS designated facility wishes to transfer an individual who has been detained on a WIC 5150 application for more than 72 hours, will DMH expect the LPS designated facility to consider the WIC 5150 application to be valid for purposes of transfer acceptance?

Answer 3: Yes, presuming that less than 72 hours of assessment, evaluation, and crisis intervention have taken place during that time, and that all other aspects of the detention noted comply with DMH LPS designation guidelines and other criteria for transfer acceptance are present. DMH expects LPS designated facilities to manage transfers of individuals properly detained under WIC 5150 in the manner specified in DMH LPS designation guidelines. The Department also recognizes that additional clinical and administrative factors are considered by institutions involved in transferring involuntarily detained individuals, beyond the presence of a valid detention under WIC 5150.

Question 4: To be compliant with LAC DMH designation guidelines on WIC 5150, how long may an individual admitted to a DMH LPS designated facility be involuntarily detained under WIC 5151, and does the duration in any way depend on when the WIC 5150 detention was initiated?

Answer 4: Assuming that the individual was not previously detained under Health and Safety Code (HSC) 1799.111, the admitted individual may be involuntarily detained for up to 72 hours after the time that a determination was made to continue detention at the LPS designated facility, following the mandated WIC 5151 assessment. Except as provided in HSC 1799.111, the inpatient detention time is otherwise not affected by the time the individual originally was detained under WIC 5150 detention prior to completion of the WIC 5151 evaluation.

If the admitted individual was previously detained under HSC 1799.111, the maximum inpatient detention time under WIC 5151 is shortened by the time the individual was detained under HSC 1799.111. In such cases, the individual may be detained involuntarily for up to 72 hours after the time the mandated WIC 5151 assessment was completed and a

determination was made to continue detention at the LPS designated facility, minus a maximum of 24 hours for the time that the individual had been detained under HSC 1799.111.

Part 2: Non-LPS designated facilities

Question 5: How long does DMH consider WIC 5150 application to remain valid for purposes of admission to an LPS designated facility?

Answer 5: DMH considers WIC 5150 application to be valid for purposes of admission to an LPS designated facility, unless or until a period of more than 72 hours of custody for mental health assessment, evaluation, and crisis intervention has occurred.

Question 6: Does DMH consider it acceptable for staff of a non-LPS designated facility to release from WIC 5150 detention an individual who was placed in detention by an LPS authorized entity that has subsequently left the facility?

Answer 6: DMH has no authority under WIC 5150 to proscribe such actions. The non-LPS designated facility may wish to consult with its legal counsel regarding its legal obligations and statutory authority.

Question 7: To be compliant with DMH LPS designation guidelines, may staff of an LPS designated facility re-evaluate an individual in a non-LPS designated facility and determine that WIC 5150 detention criteria are no longer present?

Answer 7: Yes. However, in certain instances, DMH LPS designation guidelines require that the LPS designated facility first conduct a WIC 5151 assessment to determine whether or not the involuntary detention is appropriate and inpatient admission is required.

Question 8: May a non-LPS designated facility detain an individual under WIC 5150 in instances in which the detaining authority has left the facility?

Answer 8: DMH has no authority to require such detention. During instances in which non-LPS designated facilities may wish to continue detention, it may wish to consult with its counsel regarding the legal obligations and statutory authority for continuing such detention.

Question 9: When a non-designated facility admits to an inpatient status an individual who was involuntarily detained under WIC 5150 and left there by the detaining authority, does DMH consider the WIC 5150 detention to be valid for transfer to an LPS designated facility?

Answer 9: No. DMH does not consider detention under WIC 5150 with subsequent admission to a non-designated inpatient status to be valid. DMH LPS designation guidelines require a valid 5150 detention for involuntary transfer of an individual from a non-designated facility to an LPS designated facility.

Question 10: May DMH staff (PMRT, other) require the staff of a non-designated facility to continue involuntarily detention of an individual detained under WIC 5150, after the staff who originally initiated the WIC 5150 detention has left the facility?

Answer 10: No. DMH has no authority to require the staff of a non-designated facility to continue involuntarily detention of an individual that the DMH staff (or any other entity) has

detained under WIC 5150, after the staff who originally initiated the WIC 5150 detention has left the facility. The non-LPS designated facility may wish to consult with its legal counsel regarding its legal obligation and statutory authority for continuing such detention.

Question 11: If an individual currently detained pursuant to WIC 5150 is subsequently re-evaluated by an LPS authorized individual prior to WIC 5151 evaluation to determine the need for inpatient treatment, does DMH consider a second WIC 5150 application valid and, if so, does it supersede the original 5150 application?

Answer 11: DMH considers the second WIC 5150 application to be valid and superseding the original WIC 5150 application only in cases in which the individual in custody has not been provided with assessment, evaluation, or crisis intervention pursuant to WIC 5150. In such cases, the most recent assessment is likely to represent the more accurate reflection of the presence of probable cause for further detention.

Question 12: If 72 hours of evaluation, assessment, and crisis intervention for an individual who was detained under WIC 5150 outside of admission to an LPS designated facility lapses, and the detainee still meets criteria for 5150 detention, under what circumstances does DMH consider a subsequent WIC 5150 application to be valid?

Answer 12: DMH considers the validity of any current WIC 5150 application to be independent of any previous episode of non-inpatient detention for purposes of determining compliance with DMH LPS designation and authorization guidelines. Individuals and facilities should consult with their legal counsel regarding the requirements of and compliance with WIC 5150.

Question 13: Are the LAC DMH procedures described in these FAQs the same for WIC 5585?

Answer 13: Yes, as applicable.