

California Mental Health Patient's Rights and Advocacy



San Bernardino County
Office of Patients' Rights

Office of Patient **Rights**

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Objectives



- Brief Overview of the Lanterman-Petris-Short (LPS) Act
- Overview of County Patients' Rights Advocacy
- Patients' Rights
- Involuntary/Voluntary Status
- 5150 information - Application and goals
- 5250 information - Application and goals
- Due Process, Representation and LPS Facilities Responsibilities
- Discharge Planning and Discharge Planning for Homeless Patients
- Minors Rights and Considerations
- Firearms Prohibition

Mission Statement

Our mission and function for San Bernardino County Patients' Rights Advocates is to protect the legal, civil, and human rights of all behavioral health consumers in our county.

Our goal is achieved by:

- Supporting the patients' expressed needs
- Monitoring of our LPS Facilities and Locked Residential Facilities
- Providing Patients' Rights training to behavioral health providers
- Advocating and promoting the treatment of patients with dignity and respect
- Investigate resident Grievances pertaining to patient rights violations

Brief History and Intent of Lanterman-Petris-Short (LPS) Act

History:

- Signed into law in 1967
- Applies to mentally disordered, developmentally disabled and mentally impaired due to chronic alcoholism
- Governs involuntary civil commitment for psychiatric treatment
- Established a state Patients' Rights Office/Advocacy System

The Intent of LPS is to:

- End inappropriate, indefinite, and involuntary commitment
- Provide prompt evaluation and treatment
- Safeguard individual rights through judicial review
- Encourage the full use of all existing agencies
- Provide individualized treatment, supervision, and placement services through a conservatorship program
- Protect mentally challenged persons from criminal acts
- Guarantee and protect public safety

The Advocacy System

State-mandated system:

- The State Office of Patients' Rights (California Office of Patients' Rights/COPR)
- State Hospital Patients' Right Advocates (Patton, Metro...)
- County Patients' Rights Advocates (SB County, Riverside Co., LA Co...)

Focus is expressed interest:

- Represent the expressed interest of the client as **defined by the client**
- Do not determine what is "appropriate" or in the "best interest" of the client
- Different from a traditional clinical approach

The Authority of County **Advocates**

County Patients' Rights Advocates (PRAs) shall:

- Have access to all patients and other recipients of behavioral health services in any BH facility, program, or services at all times as are necessary to investigate or resolve specific complaints
- Have access to BH facilities, programs, and services and recipients of services during normal working hours and visiting hours for other advocacy purposes
- Have the right to interview all persons providing the patient with diagnostic or treatment services
- Meet privately with patients
- Provide notification of the availability of advocacy services and information about patients' rights by distributing educational materials and discussion in groups and with individual patients
- Inspect and copy patient records with patients' authorization

The Value of **Advocacy**

For Behavioral Health (BH) Consumers:

- Help resolve problems
- Increases patient autonomy, dignity, self-esteem, independence

For Mental Health Professionals:

- Advocates are an extra pair of hands
- Assist in improving communication, diffuse tension & resolve conflict
- Improves patient's functioning level /sense of self when they are empowered

For Mental Health Facilities:

- Advocates external position helps identify systemic problems
- Assist in the development /improvement of P&P's
- Assist in preventing future patients' rights complaints and/or violations
- Helps the Behavioral Health System become more responsive to patient concerns
- Improves the delivery of behavioral health services

Patients **Rights**

Patients' Rights have been divided into two groups:

Rights that CAN be denied with “Good Cause”

- Relevant to inpatient or residential facilities
- May not be waived by the person, guardian, or conservator

Rights that CANNOT be denied:

- Constitutional Rights: Rights guaranteed to all people by the Federal Constitution and California Law
- Treatment Rights: Rights related to treatment

Upon admission to a facility, each client shall immediately be given a copy of a California DHCS Mental Health Patients' Rights Handbook.

Good Cause for Denial of **Rights**

What is **GOOD CAUSE**?

Evidence to believe:

- The right would harm the patient
 - The right would be harmful to others
 - The right would cause serious damage to the facility
- and
- There is no less restrictive way of preventing the harm or damage
 - The risk must be related to the right denied
 - Rights cannot be denied as punishment or for staff convenience
 - Rights are not a privilege to be earned
 - Rights cannot be waived or denied as a treatment modality

WIC § 5326, CCR Title 9 § 865.1

Inpatient **Rights (Deniable)**

- Wear your own clothing
- Keep & use personal possessions
- Keep and spend a reasonable amount of money
- Have access to individual storage space
- To see visitors every day
- Have reasonable access to telephones
- Make and receive confidential calls or have help making such calls
- Have access to letter-writing materials; to mail and to receive unopened correspondences
- To refuse ECT -only deniable under WIC § 5326.7

***These Rights may be denied only with GOOD CAUSE**

WIC § 5325

Restoration of **Rights**

A right shall be restored when “good cause” no longer exists.

- Staff should use the least restrictive means of managing the behavior that led to the DOR.
- The date a right is restored shall be documented in the patient’s treatment record.

CCR Title 9 § 865.5

Constitutional & Treatment **Rights**

- Dignity, privacy, and humane care
- Religious freedom & practice
- Physical exercise & recreational opportunities
- Social interaction & participation in community activities
- Free from harm; **unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect**
- Treatment services that promote independence
- Least restrictive treatment
- Prompt medical care
- Participate in appropriate programs of publicly funded education (a minor's right)
- Free from hazardous procedures

***These Rights CANNOT be denied**

WIC § 5325.1

Additional Treatment **Rights**

- To consent or refuse to consent to treatment, including antipsychotic medication
 - Except in an **emergency**
- To see & receive the services of a patient advocate
- To refuse psychosurgery
- To language services
- Confidentially
- Informed consent to treatment & medication
- Participate in individualized treatment planning
- To be informed of complaint procedures and appeals process
- Inspect & obtain a copy of their medical record
- An aftercare plan

***These Rights CANNOT be denied**

WIC § 5325.1, 5325.2, 5327, 5328, 5622

Antipsychotic/Psychotropic **Medication**

Antipsychotic medication may be administered to a patient only under the following circumstances:

- **Informed Consent:** Signed by the patient or authorized by the physician's signature
- **Consent of LPS Conservator:**
 - Only if the conservator is granted this power
 - Always review Conservatorship Letters to determine who holds the power to consent
- **Court Order:** Medication Capacity Hearing (Riese Hearing)
- **Emergency:** Defined by WIC 5008 (m), 5332 €, and CCR Title 9 section 853

WIC § 5332

Voluntary Admission Application (DHCS 1812)

LPS Regulations

- **WIC § 5003:** Nothing in LPS shall be construed as limiting the right of a person to make a voluntary application at any time to any public or private agency or practitioner for mental health services, either by direct application in person, or by referral from any other public or private agency or practitioner.
- **Form DHCS 1812** -Voluntary Admission Application (DHCS 1812) or a version of this application may be used.
- A person who has been advised of the need for psychiatric evaluation and/or treatment and is willing and able to accept this treatment on a voluntary basis, should not be placed on an involuntary hold.

PLEASE NOTE: LPS requires assessment for voluntary treatment (VOL) before initiating any involuntary hold.

State of California -- Health and Human Services Agency		Department of Health Care Services	
VOLUNTARY ADMISSION APPLICATION FOR MENTALLY DISABLED PERSON			
To the Director/Administrator _____			
I hereby apply for admission of _____ as a voluntary client/patient for care and treatment, and agree, if my request is granted, to conform to rules and regulations. I agree to give notice to a member of the hospital staff and complete normal hospitalization departure procedures to leave the hospital or to terminate treatment. Although I am a voluntary patient, I realize that if I become a danger to myself, others or become gravely disabled, this facility or someone who is designated to do so may change my status from voluntary to involuntary.			
I further agree to termination of treatment upon the decision of the Director/Administrator.			
Signature of Applicant-Client/Patient _____			
Date _____	Home Address _____		
Signature of Relative, Guardian or Conservator _____		Relationship _____	
Date _____	Home Address _____		
Signature of Relative, Guardian or Conservator _____		Relationship _____	
Date _____	Home Address _____		
Signature of Witness _____		Signature of Witness _____	
Date _____			
INSTRUCTIONS:			
"Myself" if client/patient is an adult or a minor stated in the conditions below. The name of the person, if client/patient is a minor, or has a guardian or conservator.			
Signature of voluntary applicant will be sufficient, if person is an adult or a minor as stated in the conditions below, and his mental condition is such as to enable him to understand the nature of this application.			
If a client/patient is a minor, application should be signed by both parents or by the parent or guardian having legal custody. It is necessary that signatures be witnessed.			
CONDITIONS WHEN A PERSON UNDER 18 MAY SIGN FOR VOLUNTARY ADMISSION:			
All persons under the age of 18 are minors. However, any minor who has contracted a lawful marriage may give consent to the furnishing of hospital, medical and surgical care, and such consent shall not be subject to disaffirmance because of minority. A subsequent judgment, of annulment or divorce does not deprive the minor of his adult status once attained.			
A minor 15 years of age or older who is living separate and apart from his parents or legal guardian and who is managing his own financial affairs, regardless of the source of income, may give consent to hospital, medical and surgical care.			
VOLUNTARY ADMISSION APPLICATION FOR MENTALLY DISABLED PERSON			
Confidential Client/Patient Information			
See California Welfare and Institutions Code Section 5328			
DHCS 1812 (06/2013)			

LPS Involuntary Holds

Danger to Self (DTS)- Danger to Others (DTO)- and Gravely Disabled (GD)

- **WIC § 5150** (DTS, DTO, or GD): Up to 72 hours psych evaluation, crisis intervention, and/ or treatment
 - Written by Peace Officers or County Authorized Writers
- **WIC § 5585** (DTS, DTO, or GD): Same as 5150 but for minors
- **WIC § 5200** (DTS, DTO, or GD): Court Ordered Psych Evaluation up to 72 Hours
 - Petitioned by an individual in the community and must be ordered by Superior Court Judge

WIC § 5150 - 5372

LPS Involuntary Holds

Danger to Self (DTS)- Danger to Others (DTO)- and Gravely Disabled (GD)

- **WIC § 5250** (DTS, DTO, or GD): Up to 14 days for Intensive Psychiatric Treatment
 - Initiated by treating psychiatrist
- **WIC § 5260** (DTS only): Detention up to 14-additional days; Imminent Threat for Suicide
 - Initiated by psychiatrist
- **WIC § 5300** (DTO only): Detention up to 180 additional days; Imminently dangerous person: Court Process
- **Temporary Conservatorship/LPS Conservatorship** (GD only): Court Process

PLEASE NOTE: The WIC § 5270, detention up to an additional 30 days for GD, is not authorized in SB County.

WIC § 5150 - 5372

Definitions of Gravely Disabled (GD)

- **Adult:** “Gravely disabled” means:
 - A condition in which a person, as a result of a mental health disorder or impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.
 - A person is not “gravely disabled” if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person’s basic personal needs for food, clothing, or shelter.
 - The term “gravely disabled” does not include persons with intellectual disabilities by reason of that disability alone.
- **Minor:** “Gravely disabled minor” means:
 - A minor who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.
 - Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

Involuntary Detention up to **72 Hours**

When a person, as a result of mental disorder, is a DTS, DTO, or GD, a peace officer or authorized writer may, upon probable cause, take or cause a person to be taken into custody up to 72-hour for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a county designated facility:

- The authorized “5150” writer **shall** assess the person to determine whether the person can be properly served without being detained
- If the person can be properly served without being detained, then he or she shall be provided services on a voluntary basis.
- A preadmission assessment [WIC § 5151] to determine the appropriateness of involuntary detention **must** be completed prior to admitting a person to the designated facility for treatment.

Involuntary Detention up to **72 Hours**

San Bernardino County designated facilities:

- Jerry Pettis Memorial Veterans Hospital -Loma Linda
- Arrowhead Regional Medical Center
- Loma Linda University- Behavioral Medicine Center
- Canyon Ridge Hospital
- Community Hospital of San Bernardino-BH Units Only

WIC § 5150, 5151

“5150 Application”: DHCS 1801 (06/18)

Please Remember...

The **5150 Application** may only be initiated and completed by a peace officer or an authorized writer of the County.

State of California Health and Human Services Agency Department of Health Care Services

APPLICATION FOR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT

Confidential Client/Patient Information
See California W&I Code Section 5328 and HIPAA Privacy Rule 45 C.F.R. § 164.508

Welfare and Institutions Code (W&I Code), Section 5150(f) and (g), require that each person, when first detained for psychiatric evaluation, be given certain specific information orally and a record be kept of the advisement by the evaluating facility.

Advisement Complete Advisement Incomplete

Good Cause for Incomplete Advisement:

Advisement Completed By: _____ Position: _____ Language or Modality Used: _____ Date of Advisement: _____

To (name of 5150 designated facility): _____

Application is hereby made for the assessment and evaluation of _____ residing at _____, California, for up to 72-hour assessment, evaluation and crisis intervention or placement for evaluation and treatment at a designated facility pursuant to Section 5150, et seq. (adult) or Section 5585 et seq. (minor), of the W&I Code. If a minor, authorization for voluntary treatment is not available and to the best of my knowledge, the legally responsible party appears to be / is: (Check one): Parent; Legal Guardian; Conservator; Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602.

If known, provide names, address and telephone numbers in area provided below:
The above person's condition was called to my attention under the following circumstances:

I have probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself/ herself, or gravely disabled because: (state specific facts):

(CONTINUED ON NEXT PAGE)

DHCS 1801 (06/18) Page 1 of 4

State of California Health and Human Services Agency Department of Health Care Services

APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT (CONTINUED)

Historical course of the person's mental disorder:

I have considered the historical course of the person's mental disorder

No reasonable bearing on determination

No information available because: _____

History Provided by (Name)	Address	Phone Number	Relation

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

A danger to himself / herself. Gravely disabled adult.

A danger to others. Gravely disabled minor.

Signature, title and badge number of peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county:

_____ Date: _____ Phone: _____

Time: _____

X _____

Name of Law Enforcement Agency or Evaluation Facility/Person: _____ Address of Law Enforcement Agency or Evaluation Facility/Person: _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

Notify (officer/unit & telephone #): _____

NOTIFICATION OF PERSON'S RELEASE IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

The person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

Weapon was confiscated pursuant to Section 8102 W&I Code. Upon release, facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to Section 8102 W&I Code.

SEE SUBSEQUENT PAGES FOR DEFINITIONS AND REFERENCES

DHCS 1801 (06/18) Page 2 of 4

Involuntary Patient **Advisement**

DCH 1802

Each person admitted to a facility designated by the county for evaluation and treatment **shall** be given the following information **(orally and in writing)** by admission staff of the facility:

- In a language or modality accessible to the person
- In English and the language that is the primary means of communication
- Must include the phone number of the county Patients' Rights Office

WIC § 5150 (h)

State of California - Health and Human Services Agency		Department of Health Care Services	
INVOLUNTARY PATIENT ADVISEMENT (TO BE READ AND GIVEN TO THE PATIENT AT TIME OF ADMISSION)		Confidential Patient Information See W&I Code Section 5328 and HIPAA Privacy Rule 45 C.F.R. Section 164.508	
Name of Facility _____			
Patient's Name _____		Admission Date _____	
Section 5150(h) of the Welfare and Institutions Code requires that each person admitted to a facility designated by the county for evaluation and treatment be given specific information orally and in writing, and in a language or modality accessible to the person and a record of the advisement be kept in the person's medical record.			
My name is _____ My position here is _____			
You are being placed in this psychiatric facility because it is our professional opinion, that as a result of a mental health disorder, you are likely to: (check applicable)			
<input type="checkbox"/> Harm yourself <input type="checkbox"/> Harm someone else <input type="checkbox"/> Be unable to take care of your own food clothing or shelter			
<i>(List specific 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):</i>			
We believe this is true because _____			

You will be held for a period of up to 72 hours. This (does not) (does) include weekends or holidays.			
Your 72-hour period begins: _____ (Time and Date)			
Your 72-hour evaluation and treatment period will end at: _____ (Time and Date)			
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 evaluated or treated 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 of county Patients' Rights Advocacy Office).			
Good cause for Incomplete Advisement _____			Date _____
Advisement Completed by _____	Position _____	Language or Modality Used _____	Date _____
CC: Original to the Patient Carbon to the Patient's Record			
DHCS 1802 (01/2014)			

Prior to Expiration of **72 Hours**

Before the 5150 expires, the patient must be assessed for a safe discharge or of needing further treatment.

If needing further treatment:

- Assess for voluntary treatment.
 - If the patient is willing and able to accept voluntary treatment, then...
 - An application for voluntary treatment must be signed and/or authorized by the MD
- If the patient is **not** willing or able to accept voluntary treatment and meets the criteria, then...
 - MD order to continue involuntary detention per **WIC § 5250**
 - Notice of Certification (Form DHCS 1808) must be completed, signed and delivered

Documentation of legal status change (VOL or 5250) before the 72-hour expires is necessary to determine that further involuntary detention was legally imposed by the facility.

WIC § 5250, 5259.1

“5250” & Due Process **Rights**

Why do we do Hearings?

- The Fifth Amendment of the United States Constitution states: ***“No person shall be...deprived of life, liberty, or property, without due process of law.”***
- An intention of the LPS: ***“To safeguard individual rights through judicial review.”***

Due process is guaranteed to patients detained by LPS provisions:

- Certification Review Hearing (CRH), aka ***“5250 Hearing”***
 - Informal Probable Cause Hearing
 - Officiated by an Administrative Hearing Officer
 - Automatically scheduled
- Writ of Habeas Corpus, aka ***“Writ”***
 - Formal Request for Release – a Superior Court Hearing
 - Officiated by a Superior Court Judge
 - May only be requested by the patient, patient’s representative, advocate, or attorney

Due Process and Representation

Role and Responsibility of the Patients' Rights Office:

- Meet with the patient to explain the 5250 and hearing process and their rights
- Assist the patient in preparing for the hearing
- Respond to their questions about their involuntary detention and due process rights
- Represent the patient at the CRH

Role and Responsibility of the Court and Court-Appointed Counsel

- Writ of Habeas Corpus
- Medication Capacity Hearing - aka Riese Hearing
- Temporary Conservatorship Process - aka T-CON LPS
- Conservatorship Hearings and other Court Hearings

Writ of Habeas Corpus (Request for Release)

REMEMBER...

Every person detained by WIC § 5250 has the right to judicial review by Writ of Habeas Corpus.

A request for a Writ of Habeas Corpus:

- Can be made by the patient or person acting on the patient's behalf (advocate, attorney, or authorized representative)
- Can be made to any member of the treatment staff [review facility P/P]
- Can be made at any time during the 14-day period of detention; before or after the Certification Review Hearing
 - If Writ is requested before the Certification Hearing, then no Certification Hearing

Discharge Planning

Upon discharge, the patient shall be given a written aftercare plan.

The aftercare plan shall include all the following components:

- The nature of the illness and follow-up required
- Medications, including side effects and dosage schedules
- Expected course of recovery
- Recommendations regarding treatment that are relevant to the patient's care
- Referrals to providers of medical and mental health services
- Other relevant information
- The patient shall be advised by facility personnel that he or she may designate another person to receive a copy of the aftercare plan
- The patient may refuse any or all services under the written aftercare plan
- Each hospital shall have a written discharge planning policy and process
- Aftercare plan for minors shall include educational or training needs, provided these are necessary for the minor's well-being

HSC § 1262, 1262.5, WIC § 5585.57, 5622, WIC § 5768.5

Discharge Criteria for the Homeless **Patients**

SB 1152

Hospitals are required to have a discharge planning policy/process for “homeless patients.”

The written policy shall require the hospital to:

- Ask the patient about housing status
- prepare an individual discharge plan that helps prepare the person to return to the community
- identify a post-discharge destination
- provide information to the patient in a culturally competent manner /preferred language

HSC § 1262, 1262.5

Discharge Criteria for the Homeless

Discharge planning will be guided by the best interests of the homeless patient, his or her physical and mental condition, and his or her preferences for placement.

Hospitals are required to implement a written plan for coordinating services and referrals for homeless patients with the available:

- County behavioral health agency
- Health care and social services agencies in the region
- Other health care providers
- Nonprofit social services providers

Hospitals must maintain a log of homeless patients discharged and the destinations they were released after discharge.

HSC § 1262, 1262.5

Care Coordination Plan

Prior to release from a 72-hour hold (§ 5150), a 14-day hold (§ 5250), and with referral for further care and treatment on a voluntary basis, the patient shall receive a care coordination plan.

A care coordination plan:

shall be developed by the individual, the facility, the county behavioral health department or the health care payer, and any other individuals designated by the individual as appropriate shall be provided to the individual before their discharge shall include a first follow-up appointment with an appropriate behavioral health professional The appointment information shall be provided to the individual before their release.

In no event may the individual be involuntarily held based on the requirements of this subdivision beyond when they would otherwise qualify for release.

All care and treatment after release shall be voluntary.

AB 2242 (2022); WIC § 5152, 5257.5

Definition of **Minor**

A minor is an individual under the age of 18 years old who is not:

- Married or divorced
- Currently in active military duty
- Legally emancipated by the court

Court will only emancipate a minor if all criteria is met:

- Be at least 14 years of age
- Willing to live apart from parent or guardian
- Able to manage their own financial affairs
- Income is not derived from criminal activity

WIC § 5585-5585.59

More on **Minors**

Children's Civil Commitment and Mental Health Treatment Act of 1988

1988: Assembly Bill 4642 passed adding provisions to protect minors' rights, parental rights and to address the health and welfare of the minor.

The intent of the Act:

- To provide prompt evaluation and treatment of mentally disordered minors
- To safeguard the rights to due process for minors and their families
- To provide individualized treatment, supervision, and placement services for gravely disabled minors
- To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education
- It also established a separate definition for gravely disabled minor

What is a “5585” Hold?

WIC § 5585.50 states: When a Minor, as a result of a mental disorder, is a DTO, DTS, and/or GD and authorization for voluntary treatment is not available:

- A Peace Officer or Person Designated by the County may, upon probable cause, take or cause a minor to be taken into custody
- Placed in a facility designated by the county and approved by the state as a facility for 72-hour treatment and evaluation of minors.
- The facility shall make every effort to notify the minor’s parent or legal guardian as soon as possible after the minor is detained
- The facility shall require an application in writing stating probable cause for DTO, DTS and/or GD and authorization for voluntary treatment is not available.

NOTE: The “5585” is essentially the same as the “5150” with additional safeguards to prevent the unnecessary detention of minors.

Clinical Evaluation

WIC § 5585.52 requires any minor detained under the provisions of Section 5585.50 shall receive a clinical evaluation:

- consisting of multidisciplinary professional analyses of the minor's medical, psychological, developmental, educational, social, financial, and legal conditions
- shall include a psychosocial evaluation of the family or living environment or both.
- persons providing the evaluation shall be properly qualified professionals in the diagnosis and treatment of minors
- every effort shall be made to involve the minor's parent or legal guardian in the clinical evaluation

WIC § 5585.52

Voluntary Hospitalization

If the minor requires psychiatric evaluation or hospitalization:

- Voluntary admission should be considered prior to placing a minor on any involuntary hold
- Reasonable attempts shall be made to engage the parent in the assessment process
- A minor should only be placed on involuntary detention if the parent/legal guardian is not available, unwilling or incapable of voluntarily signing their child into the hospital.
- The parent or legal guardian's consent to voluntary admission must be sought if that level of care is recommended
- If the minor is a Dependent or Ward of the Court, voluntary admission is less of an option, and involuntary detention is necessary in most cases.

Minors Admitted: Public Inpatient Facility

THE ROGER S. HEARING IS NOT A “5250” HEARING!!

It is a pre-commitment hearing provided in a public psychiatric facility:

- Available to minors between the ages of 14-17
- Automatically scheduled when a minor is “voluntarily” admitted by parent
- Minor patient must be given notice and information about the hearing
- The hearing is a private, informal meeting held at the facility within five days after minor is signed in voluntarily by parent or legal guardian
- Hearing must be heard before a judge or administrative officer of the court
- Minor has a right to counsel
- Hearing may be waived only by the minor
- Minors’ due process rights cannot be waived by a parent or guardian

In re Roger S., 31 Cal.App.5th 572

Minors Admitted: Private Inpatient Facility

Any minor, age 14-17, who is voluntarily admitted to a private psychiatric facility by parent or legal guardians' consent, and who does not agree with the parents' consent, has the right to request an Independent Clinical Review (IRC).

- Prior to accepting the written authorization for treatment, the facility must ensure that the parent(s) or legal guardian is fully explained the treatment philosophy, the use of seclusion and restraints, the use of medication, and the degree to which family members may be involved in the minor's treatment program.
- This explanation shall be given orally and in writing and documented in the minor's medical record.
- The facility must also inform the minor in writing about their right to an IRC
- A minor may request an IRC up to ten [10] days after admission.
- Once requested, the ICR will be held at the facility within five [5] days
- The minor may withdraw the request for an ICR at any time.
- The county patients' rights advocate will assist the minor with preparing for the IRC

Independent Clinical Review

The IRC is a private, informal meeting, intended to determine whether the minor has a mental disorder and if the facility is the most appropriate place to help the minor.

- The IRC will be attended by the minor, parent (s) or legal guardian, a patients' rights advocate, a representative from the facility, and the independent clinical reviewer
- The "independent clinical reviewer" is a psychiatrist who is a neutral party to the review, with experience in treating adolescents
- The minor may choose not to attend the meeting, in which case the advocate will represent the minors' expressed wishes .
- The minor and/or their advocate has the right to question anyone who is recommending that they stay in the facility.
- If the reviewer decides that inpatient treatment is the least restrictive setting and likely to be beneficial to the minor's disorder, the minor's inpatient treatment shall be authorized
- If the reviewer decides that inpatient treatment is not likely to benefit the minor, and/or not the least restrictive setting to treat the minor, the minor will be released to their parent or legal guardian the same day.

Firearms Prohibition

Report to the California Department of Justice (DOJ) when a person is:

- Admitted to LPS Facility under a 5150 as DTS and/or DTO /5-year FA Prohibition
- Admitted to LPS Facility more than 1-time within 1-year of previous admission / Lifetime FA Prohibition
 - Criteria DTS and/or DTO
- Certified under 5250, 5260 for any criteria (DTS, DTO, and GD)
 - 5-year FA Prohibition by the state and lifetime FA Prohibition in national database.
- Reporting to DOJ shall be within 24-Hours
- Reporting must be done using the DOJ Internet-based Mental Health Reporting System (MHRS)

WIC § 8101-8103

Patient Notification of Firearm Prohibition

BOF 4009 (Rev. 1/2020)

STATE OF CALIFORNIA
BOF 4009 (Rev. 01/2020)

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BUREAU OF FIREARMS
PATIENT NOTIFICATION OF FIREARM PROHIBITION AND RIGHT TO HEARING FORM

CONFIDENTIAL

PROHIBITION ADVISEMENT
Please be advised that, as a result of having been taken into custody, assessed, and admitted to a mental health facility pursuant to Welfare and Institutions Code (WIC) sections 5150, 5151, 5152, 5250, 5200, or 5270.15 as a danger to self or others, you are prohibited from owning, possessing, controlling, receiving, or purchasing any firearm, ammunition, or firearm magazine. Accordingly, you must relinquish all firearms, ammunition, and firearm magazines currently in your possession. For your convenience, the following relinquishment options are provided: 1) You may sell or transfer your firearms, ammunition, and/or firearm magazines to a non-prohibited third party using a licensed California firearms dealer pursuant to Penal Code section 28050; or 2) in accordance with Penal Code section 29810, you may utilize the General Notice of Firearm Prohibition and Power of Attorney for Firearms Relinquishment, Sale, or Transfer for Storage (BOF 110) to relinquish your firearms. BOF 110 can be found on the Attorney General's website at <https://oag.ca.gov/firearms/forms>. Please feel free to consult private legal counsel for firearms, ammunition, and firearm magazines relinquishment options.

Patient Initials (Acknowledgement) _____

PROHIBITION TERM
Pursuant to WIC section 8103, subdivisions (f) and (g), you are prohibited from owning, possessing, controlling, receiving, or purchasing any firearms, ammunition, or firearm magazines for a period of five years from your date of discharge. If you were held involuntarily in the facility for more than three days, federal law may prohibit you from owning or possessing firearms, ammunition, or firearm magazines for a longer period of time. If you were previously admitted into a mental health facility more than once during a one-year period, pursuant to WIC section 8103, subdivision (f)(1)(B), you are prohibited from owning, possessing, controlling, receiving, or purchasing any firearm, ammunition, or firearm magazine for life.

Patient Initials (Acknowledgement) _____

RIGHT TO HEARING
Pursuant to WIC section 8103, subdivisions (f) and (g), you may make a single request for a hearing at any time during the initial five year period or period of the lifetime prohibition to the Superior Court in your county of residence to provide relief from the firearms prohibition. To obtain a Request for Hearing for Relief from Firearms Prohibition (BOF 4009C) please visit the Attorney General's website at <https://oag.ca.gov/firearms/forms>.

Patient Initials (Acknowledgement) _____

PATIENT/FACILITY INFORMATION

Patient's Printed Name _____ Patient Address _____ Patient ID _____ ID Type _____

Date of Birth _____ Identifying Scars/Marks/Tattoos: _____ Referral From: _____ Date of Notification _____

Date of Discharge _____ Facility Name _____ Facility Address _____

Name and Title of Facility Employee _____ Facility Employee Signature _____ Facility Employee Phone # _____

PATIENT VERIFICATION
By signing the verification below, I certify that I have read and understand that I am subject to the prohibition(s) indicated in this document.

Executed on _____ Date _____ By _____ Patient's Signature _____

REQUEST FOR RECORDS
A request for your records may be made by mail to the Custodian of Records at this facility. Facility Address is listed above.

Distribution: (1) Facility; (1) Patient; (1) Department of Justice

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BUREAU OF FIREARMS
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AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION (CALIFORNIA EVIDENCE CODE SECTION 1158)
The undersigned authorizes the medical provider designated below to disclose specified medical records to a designated recipient. The medical provider shall not condition treatment, payment, enrollment, or eligibility for benefits on the submission of this authorization.

Medical Provider: _____ Medical Record Number: _____

Patient Name: _____ Date of Birth: _____

Address: _____ City: _____ State: _____ Zip: _____

Telephone number: _____ Email: _____

Recipient Name: _____ Recipient Telephone Number: _____

Delivery Method: Mail Pickup Email Email: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Mental Health information requested (check all that apply):

All Records Records dated from: _____ to: _____

Records related to a specific injury, treatment, or other purpose(specify): _____

This authorization may be revoked upon written request, but any revocation will not apply to information disclosed before receipt of the written request. A copy of this authorization is as valid as the original. The undersigned has the right to receive a copy of this authorization. This authorization is effective for one year from the date of the signature unless a different date is specified here: _____

Notice: Once the requested health information is disclosed, any disclosure of the information by the recipient may no longer be protected under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Patient Signature*: _____ Printed Name: _____ Date: _____

*If not signed by the patient, please indicate relationship to the patient (check one, if applicable):

Legal representation with written and signed authorization of adult patient.

Parent or guardian of minor patient who could not have consented to health care.

Guardian or conservator of an incompetent patient.

Beneficiary or personal representative of deceased patient.

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BUREAU OF FIREARMS
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Privacy Notice
As Required by Civil Code § 1798.17

Collection and Use of Personal Information: The Division of Law Enforcement, Bureau of Firearms in the Department of Justice collects the information on this notice pursuant to Welfare and Institutions Code section 8103, subdivisions (f) and (g). The Bureau of Firearms uses this information to establish patient notification of firearms prohibition and right to a hearing. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <https://oag.ca.gov/privacy-policy>.

Providing Personal Information: All personal information on this notice is mandatory. Failure to provide the mandatory personal information will result in your notice not being processed.

Access to Your Information: You may review the records maintained by the Division of Law Enforcement, Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information: In order to establish patient notification of firearms prohibition and right to a hearing, we may need to share the information you provide us with any Bureau of Firearms representative or any other person designated by the Attorney General upon request. The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies when necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations, licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information: For questions about this notice or access to your records, you may contact the Staff Services Analyst in the Customer Support Center at (916) 210-2300, via email at firearms.bureau@doj.ca.gov, or by mail at P.O. BOX 168048 Sacramento, CA 95816-8048.



Resources for More **Information**

FIREARMS:

- WIC § 8100 – 8108:
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=8.&title=&part=&chapter=3.&article=
- DOJ website:
<https://oag.ca.gov/firearms>
- Mental Health Reporting Information:
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/infobuls/2007BF-04.pdf>
- DOJ Information:
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/prohibcatmisd.pdf>
- DHCS Information:
<https://www.dhcs.ca.gov/formsandpubs/MHArchives/InfoNotice99-17.pdf>

Reporting Abuse

- **Facility Administration**
- **Police Department:** Call 911 (Emergency)
- **CA Department of Public Health:** 1-800-344-2896
- **SB County LTC-Ombudsman:** 1-866-229-0284
- **SB County APS:** 1-877-565-2020
- **SB County Patients' Rights Office:** 1-800-440-2391
- **Mandated Reporters:** Social Service Designee, Case Managers, Conservator/Public Guardian, Doctors, Nurses, Staff

Reporting **Complaints/Grievances**

- **Facility Administration**
- **CA Department of Public Health: 1-800-344-2896**
- **SB County LTC Ombudsman: 1-866-229-0284**
- **SB County Patients' Rights Office: 1-800-440-2391**
- **Social Service Designee, Case Managers, Conservator/Public Guardian, Staff**

Thank You!

**For questions or
comments, please
contact:**

San Bernardino County
Office of Patient Rights
Phone: (909) 421-4657
Toll Free: 800-440-2391

www.SBCounty.gov/DBH