

5150/5585 LPS Outpatient Designation Supplementary Materials

REVISED 11/20/2023



5150/5585 Supplementary Material Instructions

- The following slides are supplementary materials regarding:
 - History and Intent of the LPS Act
 - Review of WIC 5150 and 5585 and changes made over time
 - Role of Patients' Rights Advocacy Services (PRAS)
 - Guidance on professional writing in context of 5150/5585 evaluations
- QMS created this slide deck to balance the in-person training more on clinical applications and writing skills vs. historical and background information as presented here
- There may be questions on the Outpatient 5150/5585 Designation Exam based on material from these slides
- Part of the registration process for the Outpatient 5150/5585 Designation training includes an attestation that you have read and understood these slides

History of Lanterman-Petris-Short (LPS) Act

SECTION 1

History of the Treatment of the Mentally Ill Population

- The early years of the mental health system in California were characterized by state-run psychiatric hospitalization.
- People with severe mental illness were offered little hope for recovery, and many were placed indefinitely in these institutions.
- In the early 1950s, however, the introduction of chlorpromazine (Thorazine) and its sister drugs opened up new possibilities for treating severe mental illness in the community.
- The discovery of an effective medication to treat seriously mentally ill patients led to stabilization in many patients, to the level by which they could be treated successfully on an outpatient basis.

History of the Treatment of the Mentally Ill Population

- By 1967, in response to the Community Mental Health Act, California had discharged over half of the hospitalized patients.
- Most individuals successfully resided in board and care homes and received outpatient treatment.
- Starting several years after the signing in of the Community Mental Health Act and the commencement of the era of De-institutionalization, funds slowly started to be reallocated away from funding of outpatient community mental health agencies. With funding progressively being reallocated, board and care homes and outpatient clinics closed and services dwindled.

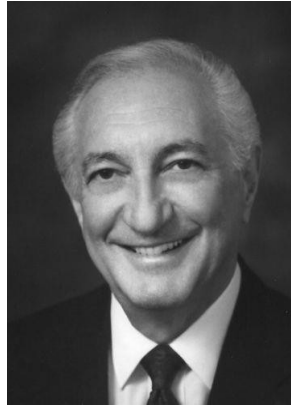
Impact From Reduced Funding

- As a result, homelessness began to increase, as did criminal arrests of the mentally ill, and admissions into psychiatric hospitalization began to grow.
- Police were detaining any odd or bizarrely acting individual and either placing them in jail or in a psychiatric detention facility, without due process. This included mentally ill, alcoholics, individuals with cerebral palsy, persons with seizure disorder, and cognitively delayed individuals.

A More Progressive Era

- 1967 was a revolutionary time in the US.
- Civil Rights were on the forefront of the minds of this nation.
- While most of the nation was focusing on civil rights based on race and gender, the civil rights of the mentally ill were not being addressed.
- However, without funding for care of the mentally ill on an outpatient basis, individuals were being detained and locked up during this time, unjustly and without due process.
- Three California Congressmen worked together to develop laws to protect the civil rights of the mentally ill in the State of California.

History of California Legislature Impacting Persons With Mental Illness



The Lanterman-Petris-Short Act (LPS Act) which addressed involuntary civil commitment of individuals in mental health institutions in California was co-authored by California Assemblyman Frank Lanterman and California Senators Nicholas Petris and Alan Short.

The LPS Act

- The LPS Act was signed into law in 1967 by then Governor Ronald Reagan.
- It went into full effect on July 1, 1972.
- The California LPS Act set precedent for modern mental health commitment procedures in the United States.
- The LPS Act states that persons with mental disorder(s) have the same legal rights and responsibilities that are guaranteed to all other persons by the Federal Constitution and federal laws as well as the Constitution and laws of the State of California.

The Intent of the LPS Act

- End the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, people with developmental disabilities, and persons impaired by chronic alcoholism in order to eliminate legal disabilities.
- Provide prompt psychiatric evaluation and treatment of persons with serious mental health disorders or impaired by chronic alcoholism.
- Guarantee and protect public safety.
- Safeguard individuals' rights through judicial review.
- Provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled.
- Encourage the full use of existing agencies, professional personnel and public funds to accomplish these objectives and to prevent the duplication of services and unnecessary expenditures.
- Protect persons with mental health disorders and developmental disabilities from criminal acts.

Riese v. St. Mary's Hospital

In 1987, the California Court of Appeal declared in the case of Riese v. St. Mary's Hospital and Medical Center, that patients had the right to exercise informed consent regarding the use of antipsychotic drugs, except in an emergency, and if they rejected medication "a judicial determination of their incapacity to make treatment decisions" was required before they could be involuntarily treated.

LPS Act

- Up until 1988, all Welfare and Institution Codes applicable to the LPS Act were applied to all individuals in California, regardless of their age.
- No matter your age, if you were a danger to self, others or gravely disabled due to a mental health disorder, you would be placed on a 5150.



What is a Minor?

Any person 17 years of age or younger who is not:

- ❖ Married or divorced
- ❖ A member of the US military on active duty
- ❖ Legally emancipated by the court:
 - Be at least 14 years of age
 - Be willing to live apart from your parents
 - Be able to manage your own financial affairs
 - Sustain income not derived from criminal activity

Significant Changes to the LPS Act in 1988

- A new California Welfare and Institution Code **5585** was developed and was a modification of the LPS laws to reflect the special needs of minors with mental health disorder vs. adults.
- Pursuant to WIC 5585, every reasonable effort must be made to involve the parent in the crisis evaluation process.
- If the child requires hospitalization, the parent must be allowed to admit their child voluntarily to the hospital, unless they are not able, capable or willing.
- If a minor's parent or legal guardian authorization for voluntary treatment is not available, the minor should be placed on 5585 involuntary hold (WIC 5585.50).

Assembly Bill 4642 (1988)

- The definition of "Grave Disability" was change to reflect the special needs of minors to say: "A minor who, as a result of a mental health disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, or shelter, even though provided to the minor by others."
- A child hospitalized under 5585 must have an Aftercare Plan developed before releasing the child from the hospital.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

Assembly Bill 1424 (2001)

- This broadened the information that is required to be included in the evaluation of an individual when determining whether probable cause exists to detain a person for 72 hour evaluation and treatment.
- The individual's medical and psychiatric records must be reviewed and considered in the historical course of the individual's mental health disorder, if available.
- Relevant information provided by the individual's family or the individual about the historical course of the individual's mental health disorder must be considered.

Assembly Bill 1424 (2001)

- Requires agency or facility providing treatment to any person to acquire the person's medication history, if possible.
- Prohibits any health care service plan, disability insurer, or Medi-Cal program from utilizing any information regarding whether a person's psychiatric inpatient admission was made on a voluntary or involuntary basis for the purpose of developing eligibility for claim reimbursement.

(WIC) 5150 Modifications

- Modifies the LPS Act and became effective January 1, 2002.
- Requires that any person authorized to take a person into custody for involuntary treatment consider available relevant information about the historical course of the person's mental disorder if the information has a reasonable bearing on the determination as to whether the person is a danger to others, or a danger to self, or is gravely disabled as a result of the mental illness.
- The WIC 5150 code stipulates that an individual who is designated by the county can initiate a WIC 5150 hold and place an individual in a locked psychiatric facility or hospital for up to 72 hours for assessment, evaluation, treatment and crisis intervention.
- When determining if a person should be taken into custody shall no longer be limited to consideration of the danger of imminent harm.

WIC 5150 Overview

- 5150: Detain and transport to an LPS facility
- 5151: Assessment to determine the appropriateness of the involuntary detention
- 5152: Admission involuntarily, pursuant to the above

WIC 5150 (a)

When a person, as a result of a **mental health disorder, is a danger to others, or to himself or herself, or gravely disabled**, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of **up to 72 hours** for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

WIC 5150 (b)

When determining if a person should be taken into custody pursuant to subdivision (a), the individual making that determination shall apply the provisions of Section 5150.05, and **shall not be limited to consideration of the danger of imminent harm.**

WIC 5150 (e)

The application **shall also record** whether the **historical course** of the person's mental disorder was considered in the determination..."

WIC 5150 (g)

(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 professionals at_____(name of facility). You will be told your rights by the mental health staff.” [WIC 5150 (g)(1)]

(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.

It is recommended that you read the entire Welfare and Institution Code 5150 at:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=5150

(WIC) 5585 Overview

- When a minor, as a result of a mental health disorder, is a danger to others, to self, or Gravely Disabled, a person designated by the county may upon probable cause initiate a 72 hour detention for psychiatric evaluation and treatment.
- Children's Civil Commitment and Mental Health Treatment Act of 1988 (*Amended by Stats. 2012, Ch. 457, Sec. 53. (SB 1381) Effective January 1, 2013*)
- This is a legal process.

(WIC) 5585

5585.10 - This part shall be construed to promote the legislative intent and purposes of this part as follows:

(a) To provide prompt evaluation and treatment of minors with mental health disorders, with particular priority given to seriously emotionally disturbed children and adolescents.

(b) To safeguard the rights to due process for minors and their families through judicial review.

(c) To provide individualized treatment, supervision, and placement services for gravely disabled minors.

(d) To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education. *(Amended by Stats. 2014, Ch. 144, Sec. 99. (AB 1847) Effective January 1, 2015)*

It is recommended that you read the entire Welfare and Institution Code 5585 at:

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=WIC&division=5.&title=&part=1.5.&chapter=&article=



Patients' Rights Advocacy Services (PRAS)

SECTION 2

WHAT IS PATIENTS' RIGHTS ADVOCACY

"Expressed Interest" vs. "Best Interest"

Advocacy is the process of promoting and representing patients' rights and interests through direct assistance, monitoring, training and policy review.

Advocates ensure that the statutory and constitutional rights of recipients of mental health services are respected.

The Patients' Rights Advocate represents the "Expressed Interest" of the patient and acts as the patient's voice when needed.

THE ROLE OF PATIENTS' RIGHTS ADVOCATES

PRAS provides education to inpatient, outpatient and residential facilities regarding patients' rights. PRAS then works in collaboration with these entities to ensure that mental health laws, regulations and policies are followed. PRAS also investigates patient complaints and grievances with the goal of resolving the identified complaints. The types of complaints include:

- 1
- 2 **Violation of Rights**
- 3 **Breaches of Confidentiality**
- 4 **Placement**
- 5
- 6 **Financial or Medication Problems**



See Welfare & Institutions Code (WIC) § 5500 - 5550

ENSURE THAT PATIENTS' UNDENIABLE RIGHTS ARE UPHELD

Persons with mental illness have the same legal rights and responsibilities guaranteed all other persons by the Federal Constitution and laws and the Constitution and laws of the State of California. No person by reason of having been involuntarily detained for evaluation or having been admitted voluntarily to any facility in which psychiatric treatment is offered shall be excluded. (*WIC Section 5325.1*)



UNDENIABLE RIGHTS

The right to receive treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.

The right to receive mental health services without discrimination on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, medical condition or sexual orientation.

The right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.

UNDENIABLE RIGHTS

The right to dignity, privacy, and humane care.

The right to religious freedom and practice.

The right to social interaction and participation in community activities.

The right to physical exercise and recreational opportunities.

The right to be free from hazardous procedures.

The right to participate in appropriate programs of publicly supported education.

The right to prompt medical care and treatment.



UNDENIABLE RIGHTS

- The right to speak with a patients' rights advocate at any time.
- The right to enter into contracts, marry, vote.
- The right to confidentiality.
- The right to informed consent.
- The right to refuse to take part in any research project or medical experiment.
- The right to refuse electroconvulsive therapy (ECT) unless the court has determined that the individual lacks the capacity to make this decision. (WIC 5326.7)

THE ROLE OF THE PATIENTS' RIGHTS ADVOCATE REGARDING LEGAL HOLDS:

- Monitor all LPS Designated Psychiatric Units for compliance with Patients' Rights statutes and regulations.
- Audit LPS holds to ensure criteria is appropriately documented.
- Review timeliness of the legal holds in accordance with LPS law.
- Ensure due process requirements are followed and in compliance for all legal holds.

Disclaimer

The *Application for 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment (5150 form)* 5150/5585 Form was revised by DHCS in 12/19 and was revised by QMS in 4/20 with DHCS permission. The 5150 Form Example screenshots in this portion of the training are from the old 5150 form, but have been left for instruction purposes only. Refer to the New 5150/5585 Training and Instructions section of this training for the new form and new/updated procedures.

What is a 5150?

When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person designated by the county for evaluation and treatment may, upon probable cause, take, or cause to be taken the person into custody for a period of up to 72 hours for **assessment, evaluation, and crisis intervention, or placement for evaluation and treatment** in a facility designated by the county for evaluation and treatment and approved by the state department of health care services. [WIC 5150(a)]

When determining if a person should be taken into custody pursuant to subdivision (a), the individual making that determination shall apply the provision of section 5150.05, and **shall not be limited to consideration of the danger of *imminent* harm.** [5150(b)]



When Patients' Rights is called...

We begin first with a review of the 5150:

- 1 Is there evidence of an advisement? Was the advisement completed?
- 2 Is it substantiated that the person meets the criteria checked (DTS, DTO or GD)?
- 3 Is there evidence/documentation of the person being unable or unwilling to accept voluntary treatment?
- 4 Is the date and time noted and correct? Is the 5150 signed?
- 5 Is the 5150 legible?

5150 EXAMPLE #1

To (name of 5150 designated facility) Any LPS Facility

Application is hereby made for the assessment and evaluation of [Redacted]

Residing at Huntington Beach, 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: (Circle one) Parent; Legal Guardian; Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602; Conservator. If known, provide names, address and telephone number.

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

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) Recent suicide attempt as well as continued statements of wanting to die

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. A danger to others. Gravely disabled adult. 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. [Redacted]

Date	8.4.17	Phone
Time	1700	

Name of Law Enforcement Agency or Evaluation Facility/Person [Redacted] Address of Law Enforcement Agency or Evaluation Facility/Person [Redacted]

5150 EXAMPLE #1

Residing at: Provide actual address if possible.

Person's Condition: Does "consult on medical floor" describe this?

Specific Facts: No specific S/I statements indicated. Nothing to support GD criteria.

No identifying information regarding: Law Enforcement Agency, Evaluation Facility, Person Evaluating, Phone number, Address.

Other?

5150 EXAMPLE #2

Residing at Maywood HC, Maywood, 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: (Choose one) Parent; Legal Guardian; Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602; Conservator known; provide names, address and telephone number:

The above person's condition was called to my attention under the following circumstances: I was asked by staff to assess this 84 yr old male by Dr. [unclear]. Patient has symptoms, stating not at all for us upon due to a broken ankle. Dr. [unclear] with [unclear] [unclear] of the [unclear] [unclear] [unclear] [unclear] for 10/15 - 10/18/17

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) patient is scared and unable to be cared for and unable to care for herself.

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. A danger to others. Gravely disabled adult. Gravely disabled minor.

5150 EXAMPLE #2

Mostly Illegible

"Pt. is deaf and mute and unable to be cared for here and unable to care for herself." Does this information support DTO and GD?

Other?

5150 EXAMPLE #3

Residing at Homeless, 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: (Circle one) Parent; Legal Guardian; Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602; Conservator. If known, provide names, address and telephone number: _____

The above person's condition was called to my attention under the following circumstances: Anaheim police called and asked for an evaluation. Client lives in the park. He had an incident with a lady in the park where he was delusional and became hostile towards her.

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) Client is a 45 y/o SWM. Client has a history of schizophrenia. Upon evaluation, client was unpredictable, intimidating and hostile. He is delusional and grandiose at times. He refuses to take medications and refuses voluntary treatment. He is unpredictable and has poor impulse control.

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. A danger to others. Gravely disabled adult. Gravely disabled minor.

The 5150 must be a stand alone document

Document method for being DTO, DTS (e.g. use a machete to stab a person, hang oneself.)

Substantiate specific behavior for the symptoms of being delusional, hostile, grandiose, etc.

Do not use abbreviations such as SWM. Write out single white male.

Identify source of historical information that was gathered (e.g. Therapist reported patient has a three year history of depression)

Date of Onset of diagnosis/history

Place: Identify the name of the park, hotel, home address, etc.

Do not list medications or medication history on the 5150 form

GOOD EXAMPLE

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:
Elsie S. Dubbuhew, LMFT

Position:
CAT Team

Language or Modality Used:
English

Date of Advisement:
08/23/2018

To (name of 5150 designated facility): Any Designated Facility

Application is hereby made for the assessment and evaluation of JohnPaul George Ringo residing at Homeless/Hart Park, Orange, 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:

Telephone call from Orange Police Department to evaluate the above mentioned individual who was reportedly threatening and intimidating people in the park. Yelling threatening statements such as "Get away or I'll stab you," and stating "This is my park that I built and I'll break your face if you don't leave." This individual is also observed to be talking loudly to himself and shouting, seemingly without provocation.

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):

Upon evaluation this person was threatening to "break my face" if i didn't leave him alone. This person is known to this writer and has had multiple psych hospitalizations as recently as last month at Royale TRC. He is threatening to harm park goers by punching them. He presents as dirty, disheveled and malodorous wearing torn clothing. Seems confused, unaware of date and time. He has a history of assault and currently appears unpredictable as he will occasionally lunge at people in the park causing them to run away.

DETAINMENT ADVISEMENT

My name is Elsie S. Dubbuhew, LMFT
I am a (peace officer/mental health professional) with (name of agency).
You are not under criminal arrest, but I am taking you for examination by mental health professionals at (name of facility).

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

If taken into custody at his or her residence, the person shall also be told 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.

(CONTINUED ON NEXT PAGE)



Welfare & Institution Code 5150.05

When determining if probable cause exists to take a person into custody:

- Information about the historical course of a person's mental disorder shall be taken into consideration if it is relevant in making the determination if a person is DTS, DTO, or GD.
- This information can include evidence presented by a person that has provided supportive service, a family member, or someone designated by that person.
- Verbal and/or written materials must be communicated to the hospital for continuity of care.
- The hospital must have this information available in the chart to be included in future hearings. (i.e. PCH, Writ of Habeas Corpus)

Welfare & Institution Code 5150.05

If the individual assessed meets criteria based on false statements, and probable cause is supported due to accounts of someone other than the designated person (e.g., a friend or family member), the person giving the information may be liable for giving an intentionally false statement (W&I 5150).



5150

72-hour Hold

- The 5150 can be for any or all of the criteria (DTS, DTO, GD).
- When a patient is placed on a 5150, there is no guarantee of a due process review or of a hearing.
- Unlike the 5250 where the law states a Writ of Habeas Corpus must be heard within two court days, there is no such provision for a Writ to be heard during this period.
- Upon admission, the facility staff are required to advise the patient of their legal status, evaluation and treatment orally and in writing for the person to keep.

5150 COUNTY TO COUNTY

An LPS designated facility from one county cannot refuse a patient that is on a 5150 written by a qualified mental health professional from another county.

Laws governing WIC 5150 apply to the entire state of California. Receiving facilities must, by statute, reassess the individual prior to admission to determine the appropriateness of involuntary detention.



VIGNETTE #1

You receive a call from a woman who reports that her husband has been extremely depressed and for the past few weeks has been voicing suicidal statements. She reports that he has been voicing these statements since he lost his job that he's had for over 20 years. The wife reports that her husband is making statements such as "You'd be better off without me," and "I should just end it all today." She also reports that he has also been giving away possessions that he's held dear for years. You go to assess the situation. You find the husband is pleasant and denies that he has a plan to harm himself. You notice his wife is visibly upset as she shakes her head out of concern.

Things to Consider...



VIGNETTE #1

Things to Consider

Is the fact that the wife reports that her husband is giving away possessions significant?

What could his elevated mood signify?

Does this man meet criteria for DTS?

What other questions would you ask?

5585 "5150" FOR MINORS

The 5585 can be for any or all of the criteria (DTS, DTO, GD).

When a minor is placed on a 5585, there is no guarantee of a due process review or a hearing.

All minors admitted to a psychiatric facility must be reported to Patients' Rights Advocacy Services within 24 hours (WIC 6002.15(c)(2)).

The definition for a "Gravely Disabled Minor" is different compared to an adult.

GRAVE DISABILITY FOR MINORS

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

5250

14-Day Hold (Adults & Minors)

A 14-day hold (5250) replaces the 5150 if the need for involuntary hospitalization is still evident.

The 5250 can be written for any or all of the 5150 criteria (DTS, DTO, GD).

The 5250 must be signed by the treating physician prior to the expiration of the 5150 date and time.

A copy must be served to the patient; staff must sign that they delivered the copy and explained the right to a Writ of Habeas Corpus.

The 14 days expire at midnight on the 14th day.

CHART OF LPS HOLDS

LPS Holds	CRITERIA			Court Proceedings
	Gravely Disabled	Danger to Self	Danger to Others	
72-HOUR WIC §5150/5585 Evaluation & Treatment		ONE or ALL MAY APPLY		1. No probable cause hearing
14-DAY WIC §5250		ONE or ALL MAY APPLY		1. Probable cause hearing must be held during first 4 days of the hold unless patient writ of habeas corpus, 48 hr. postponement, and signs voluntary or is discharged. 2. Patient may request one writ of habeas corpus hearing at any time during 14-day hold. 3. Riese hearing may be requested any time during 14-day hold. Each subsequent hold requires a new Riese hearing.
ADDITIONAL 14-day WIC §5260		ONLY Criteria which Applies		1. No probable or court hearing required. 2. Patient may request writ of habeas corpus any time during 14-day period. 3. New Riese hearing may be requested any time during 14-day period.
30-DAY WIC §5270	ONLY Criteria which Applies			1. Probable cause hearing must be held during first 4 days of the hold unless patient request a writ of habeas corpus, 48 hr. postponement, and signs voluntary or is discharged. 2. Patient may request one writ of habeas corpus hearing at any time during 30-day period. 3. New Riese hearing may be requested any time during 30-day hold.
180-DAY WIC §5300 RENEWABLE			ONLY Criteria which Applies	1 Requires contact with D.A. several days prior to expiration of 14-day hold. 2. Requires the D.A to file a petition with the court and an arraignment hearing in court. 3. New Riese hearing may be requested any time during 180-day period.
TEMPORARY CONSERVATORSHIP 30 DAYS - 6 MONTHS	ONLY Criteria which Applies			1. Requires application by the treating physician to the Public Guardians' office. 2. Judge review application & determines whether to grant or deny T-CON. 3. Patient may request writ of habeas corpus any time during T-CON period. 4. Patient may request a "Meredith" Capacity Hearing for medication.
"FULL" CONSERVATORSHIP 1 YEAR RENEWABLE	ONLY Criteria which Applies			1. Requires a court hearing. Physician may be required to testify in court. 2. Patient may request re-hearing on conservatorship, rights denied, disabilities imposed once every six months.
RE-APPOINTMENT OF "FULL" CONSERVATOR	ONLY Criteria which Applies			1. Requires conservator petitioning for reappointment and a court hearing.

DUE PROCESS HEARINGS

Probable Cause Hearing

If a patient has not requested a writ of habeas corpus after being served with a 5250, an informal hearing called a PCH will occur within 4 days from the date the patient was placed on the 14-day hold. The patient will be represented by a patients' rights advocate. This hearing will be held at the facility where the patient is being treated and will be heard by a Hearing Officer. The Hearing Officer will determine whether the patient continues to meet criteria for any or all of the following; "Danger to Self," "Danger to Others" or "Gravely Disabled" due to a mental health disorder.

Writ of Habeas Corpus

Is a legal request for release from a facility. The writ will entitle the client to a hearing in Superior Court. The court date will be set within two working days from the time the client files for a writ. The client will be assigned an attorney from the Public Defender's Office. An investigator from the Public Defender's Office will come to the facility to review the chart and interview the client. On the day of the writ hearing, the client will be transported to Superior Court by the Marshal's Office. The judge will make his/her decision to release the client or to continue the involuntary 14-day treatment period.

Riese Hearing

A doctor may request a Riese hearing to ask the court to determine whether or not the patient should be allowed to refuse medication. Within two days (not including weekends) from the time the doctor requests a Riese hearing, the patient will be contacted by an attorney from the Public Defender's office. The court will then schedule a hearing to occur at the facility before a Hearing Officer from Superior Court. The client cannot be medicated against their will before the hearing (unless there is an emergency).

VIGNETTE #2

You are called to a home of a 16 year-old female that lives with her parents. The parents report that their daughter has a history of acting suspicious, paranoid and demonstrating threatening behavior toward them. They also report that she has had multiple psych hospitalizations since she was 12 years old. They also inform you that lately she has not been taking her medications and she has been threatening them by saying she's going to "attack us as we sleep." You go to evaluate the situation and find that the daughter admits to threatening her parents, however she states that the threats are mutual and these arguments happen at least three times per week for about six weeks. She currently denies any intent to harm her parents, but states that she would like them "to get off my back." She also states that her parents want her put away because they are planning a trip to Cancun.

Things to consider...

VIGNETTE #2

Things to Consider

Has there been an actual attempt by the minor to harm her parents?

What does “multiple psych hospitalizations” mean?

Over how long a period of time?

When was the minor’s last hospitalization?

What is meant by “threatening behavior?”

Is the minor currently receiving outpatient services?

Is the family in treatment?

Does the parents’ planning to go on vacation have any significance?

Other?

VOLUNTARY ADMISSION FOR MINORS

VOLUNTARY admission of a minor means the parent or legal guardian wants the minor to be admitted to the hospital. It does not necessarily mean the minor wants or agrees to the hospitalization.

The “voluntary” admission procedures that apply to minors must still meet the criteria (DTS, DTO and/or GD).

There is no due process therefor; the private facilities must inform the minor in writing about his/her right to an Independent Clinical Review (ICR) upon admission.

INDEPENDENT CLINICAL REVIEW (ICR) For Minors

Minor's Right to an ICR

- The ICR is available to the minor upon request when on a "voluntary" status.
- The request must be made within the first 10 days of admission and the review shall take place within 5 days of the request.
- The ICR is conducted at the facility.

ICR Participants

- A psychiatrist who is a neutral party to conduct the review.
- A Patients' Rights Advocate is required to provide assistance to the minor at the review.
- A representative of the facility.
- Parent or Guardian
- Minor

Standard of Review

- Whether the minor continues to have a mental disorder.
- Whether further inpatient treatment is reasonably likely to be beneficial to the minor's mental disorder.
- Whether the placement in the facility represents the least restrictive and most appropriate setting to treat the minor.

2019 LEGISLATIVE UPDATES

Voluntary Psychiatric Care AB 2983

Effective January 1, 2019

Amended Health & Safety Code Section 1317

HSC Section 1317 (f):

“A general acute care hospital or acute psychiatric hospital shall not require a person who voluntarily seeks care to be in custody pursuant to Section 5150 of the Welfare and Institutions Code as a condition of accepting a transfer of that person after his or her written consent for treatment and transfer is documented or in the absence of evidence of probable cause for detention, as defined in Section 5150.05 of the Welfare and Institutions Code.”



2019 LEGISLATIVE UPDATES

What does AB2983 mean?

5150 Involuntary hold **is not a requirement** for transferring a patient who voluntarily seeks mental health services.

Receiving hospital **cannot require** a 5150 as a condition of accepting the patient.

Does not preclude the use of involuntary holds pursuant to WIC Section 5150.



2019 LEGISLATIVE UPDATES

Transferring Patient on a 5150 AB 2983

Clinical judgement of 5150 evaluator (County PET, CAT, private sector Designated Individuals, emergency room physicians, etc.) whether a patient can be safely transferred to a receiving hospital without being on a 5150/5585 involuntary hold even if patient or parent/legal guardian requests voluntary transport.

Document reason for method of transport
(voluntary vs. involuntary)



2019 LEGISLATIVE UPDATES

Mental Health: Firearm AB 1968

Effective January 1, 2019
Operative January 1, 2020
Amended WIC Section 8103

- Imposes a lifetime firearm prohibition on a person who has been taken into custody, assessed, and admitted to a designated facilities twice within a one-year period.
- Danger to self or others as a result of a mental health disorder.
- Allows person subject to this lifetime firearm prohibition to request a hearing every 5 years to show that he or she can use firearms in a safe and lawful manner.
- Burden of proof is on the District Attorney that the person should remain prohibited.
- Voluntary patients are not subjected to this.



2021-2022 LEGISLATIVE UPDATES

- Assembly Bill 2275 made several changes to the LPS Act
- CA Assembly noted that there were significant inconsistencies of LPS ACT implementation across California
- Highlights of the changes
 - Specifies 72-hour period of detention begins at the time when a person is first detained
 - Removes time constraints for postponement of the certification review hearing (CRH)
 - Requires any facility who detains a person pursuant to WIC 5150 to notify the county patients' rights advocate if a person has not been released within 72 hours of the hold
 - Requires a CRH to be held within 7 days of the date the person is initially detained when a person has not been certified for 14-day intensive treatment and remains detained on a 72-hour hold
 - Requires the person in charge of the county designated facility, or an individual designated by the county if the person is not in a designated facility, to notify the detained person of specified rights
 - Extends the right to a writ of habeas corpus to every person detained under this part if held in a any facility longer than 72 hours
 - Applies AB2275 provisions equally to minors

2023 LEGISLATIVE UPDATES

- Senate Bill 43 greatly expands the definition of Grave Disability
- “(A) A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.”
- “Gravely disabled” includes a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.
- Orange County is planning on deferring implementation until **January 1st, 2026**

Resources

- County Policies and Procedures:
<https://www.ochealthinfo.com/bhs/pnp>
- Abuse Reporting: <http://ssa.ocgov.com/abuse/>
- Tarasoff / Duty to Protect: [Duty to Protect](#)
- Special Incident Reports:
 - [On the HCA Intranet for County providers](#)
 - Contractors use their own P&P's and reporting

Additional Resources

BHS has Practice Guidelines has various topics and Quick Guides located at: <https://www.ochealthinfo.com/bhs/about/aqis/guidelines>

BHS Suicide Assessment & Treatment Practice	Adopted
Practice Guideline	11/06/2019
Quick Guide	11/06/2019

BHS Suicide Assessment and Treatment Practice is available on the Practice Guidelines webpage

The BHS Danger to Other Practice Guidelines and Quick Guide will be posted soon at the link above.



Thanks for reading! See the required pre-training forms at the [LPS Designation webpage](#) for the next step of the process.

Any questions or concerns, please e-mail AQISDesignation@ochca.com