



CA

Workplace Violence Prevention Laws & Regulations

CALIFORNIA INVOLUNTARY HOLDS INFORMATION:



CA Involuntary Holds Information

WIC Welfare and Institutions Code

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LPS The last name initials of the California legislators who wrote the California Mental Health Act of 1969 Lanterman-Petris-Short

WIC Welfare and Institutions Code

LPS Hold Also known as a mental health hold or psychiatric hold. Any holds defined in the Welfare and Institutions Code sections 5000 et. seq. (Listed below)

WIC 5150 - Also known as 72 hour holds.

Detention of Mentally Disordered Persons for Evaluation and Treatment for a period of 72 hours for persons alleged to meet the legal criteria of being a danger to self or others or gravely disabled due to a mental disorder (See WIC 5150 for more detail).

WIC 1799 If no one is available to write a 5150 application, physicians and other licensed staff who provide emergency medical care in general acute care hospitals can place a patient on a 1799 hold to detain the person for 24 hours. If the patient's status does not improve, they may be evaluated for a 5150 once a professional is available. A 1799 does not include any provisions for firearm removal or prohibition.

WIC 5250 - Also known as 14 day holds.

Certification for Intensive Treatment for a period of 14 days for persons alleged to meet the legal criteria of being a danger to self or others or gravely disabled due to a mental disorder (See WIC 5250 for more detail).

WIC 5260 - Also known as additional 14-day hold.

Additional Intensive Treatment of Suicidal Person certification for an additional period of 14 days beyond WIC 5250 (the first 14 days) for persons who are allegedly suicidal due to a mental disorder (See WIC 5260 for more detail).



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WIC 5270 - Also known as 30 day holds.

Additional Intensive Treatment for an additional period of 30 days beyond WIC 5250 (the first 14 days) for persons who were gravely disabled on the first 14 day hold and allegedly remain gravely disabled due to a mental disorder (See WIC 5270 for more detail).

Certification Review Hearing WIC 5256 - Also known as Probable Cause Hearings.

A facility-based hearing for persons on WIC 5250 and/or 5270 holds. The hearing is to determine if the psychiatric treatment facility has probable cause to detain the person for the remainder of the hold period. The facility is required to notify the court (Mental Health Counselor's Office) when any person is placed on a 5250, 5260, or 5270 hold. The Certification review hearing is to be held within 4 days of the person being placed on the hold. A facility representative must present the probable cause information at the hearing. The representative of the facility must be a mental health professional designated by the director of the facility to present. The psychiatric treatment facility representative must show probable cause that the person is a danger to self or others or gravely disabled due to a mental disorder. The patient is usually represented by a Patient's Rights Advocate from the Los Angeles County Department of Mental Health but may be represented by their own attorney. The hearing is based on the criteria of the current hold the person is on (See above for hold criteria).

Mental Health Hearing Referee WIC 5256.1

Also known as probable cause hearing officer or certification review hearing officer.

Person designated by the Supervising Judge of the Mental Health Court to conduct Certification Review Hearings and file Judicial Reviews requested by persons on holds. If the Mental Health Hearing Referee is an attorney, they may also be authorized to conduct Medication Capacity Hearings (See Medication Capacity Hearings).

Judicial Review WIC 5275 et. seq. - Also known as Writ or Writ of Habeas Corpus.

Judicial Review: A person may request one Judicial Review per hold. A person may choose to bypass the probable cause hearing for Judicial Review. A person may request Judicial Review if probable cause is found at their certification review hearing. The Writ must be filed with the court on the date taken and heard within two judicial days

WIC 5300 - Also known as 180-day post cert.

Post certification Procedures for Imminently Dangerous Persons for a period of 180 days beyond WIC 5250 the first 14 days hold for persons who allegedly have made a serious threat of substantial physical harm or attempted or inflicted physical harm on another due to a mental disorder (See WIC 5300 for more detail).



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Application for Conservatorship WIC 5352

Also known as an LPS or Mental Health Conservatorship.

A mental health conservatorship begins with an application for conservatorship completed by a person designated to write LPS holds, filed with the Public Guardian's Office. No applications for mental health conservatorship will be accepted from family or friends

Medication Capacity Hearing WIC 5332

Also known as a Riese hearing or antipsychotic medication capacity hearing.

A facility bases hearing to determine if person's on an LPS holds, other than a temporary conservatorship or conservatorship, has the capacity to refuse psychiatric medications. Hearings for persons on temporary conservatorship must be requested through Public Guardian/County Counsel. If the person is on conservatorship, the conservator should be notified and advised to request a hearing with the court. These hearings are held in Superior Court Department 95A. The initial hearing for LPS, holds must be held at the facility. The treating physician must file (FAX) a petition to the Mental Health Counselor's office. The hearing must be scheduled within 72 hours. The decision of the Mental Health Hearing Referee may be appealed to the Court by either the patient or the treating physician. The current treating Physician must present the evidence at these hearings.

WIC 5350

Also, called conservatorship, LPS conservatorship, or mental health conservatorship.

These sections define the process of requesting conservatorship for a person who is alleged to be gravely disabled due to a mental disorder. Conservatorship lasts for a period of one year. The conservator may petition the court for reappointment each year. Failure to request reappointment as conservator before expiration of the current appointment, requires the court to end the conservatorship operation of law

Temporary Letters of Conservatorship WIC 5352.1. - Also known as TCON.

The court may issue a temporary letter of conservatorship when a petition for conservatorship is filed by the Public Guardian's Office. The temporary letter of conservatorship permits the Public Guardian to authorized continued involuntary treatment for a period of 30 days (NOTE may be extended up to 6 months).

Public Guardian - Also known as PG.

WIC 5351 All applications for mental health conservatorships must be filed with the Public Guardian. The Public Guardian may serve as conservator if the court finds a person to be gravely disabled and there are no family or friends willing and able to be the conservator



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Deputy Public Guardian - Also known as DPG.

A deputy public guardian will conduct the investigation to determine if conservatorship should be established or may carry a caseload of persons on conservatorship under the Public Guardian.

Public Defender - Also known as PD.

May represent the patient in any type of mental health case.

County Counsel - Also known as CC.

Represents the Public Guardian on all conservatorship cases.

District Attorney - Also known as DA.

Represents the State's interest on most mental health cases.

LPS HOLDS CHART

[View the LPS Holds Chart.](#)

BEHAVIOR VARIABLES TO CONSIDER

The basis for holding a person in a Designated Psychiatric Treatment Facility is not a medical model. It is a legal model. The law and the courts have consistently held that personal freedom is the most important right we possess

The Court is looking at behaviors that lead you to believe that a person due to a mental disorder is a Danger to Self, Danger to Others, and/or Gravely Disabled. Simply stating the diagnosis without behaviors does not meet the criteria. Simply believing the patient is very sick and anyone can see does not meet the criteria. The burden of proof showing the patient meets the legal criteria to be held against their will lies with the hospital. The following are variables with questions you must consider and be able to present on when you are holding a person on Danger to Self, Danger to Others, and/or Gravely Disabled due to a mental disorder



Auditory Hallucinations

Is the patient telling you they are having auditory hallucinations or is it that, they appear to be responding to internal stimuli? When asked if they are having auditory hallucinations does the patient answer?

If they answer:

Are the auditory hallucinations sounds or words?

If they are words is it someone they know?

Are the words saying good things or bad?

Are they commanding?

Are they telling them to hurt self or others?

Are they telling them to not eat?

Have they heard the voices in the past?

If they have heard them in the past, did they cause them to do anything?

If they do not answer can you describe any behaviors that seem to be the result of the patient responding to internal stimuli?

Do the auditory hallucinations help you establish that the patient meets the legal criteria of being a Danger To Self, Danger To Others, and/or Gravely Disabled? If so, how? Delusions

What type of delusion is the person having?

How do you know it is a delusion?

Is the delusion such that it would lead the person to cause harm to self or others?

Have they had the delusion in the past and has it caused them to do anything?

Does it prevent them from providing for food, clothing and/or shelter? If so, how? Seriousness Of Precipitating Events

How serious were the circumstances that brought the patient into the hospital?

Who is reporting this information to you?

Is it serious and the patient is down playing it as nothing?

Did something happen physically or was it just words?

Has the patient done this in the past?

How does the precipitating event lead you to believe that the patient continues to be a Danger to self and others and/or Gravely Disabled at this time?



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Thought Disorders

What thoughts do you feel are disordered?

Have you looked at cultural differences?

Is the thought disorder global, does it affect every part of their thinking or just a selected area?

If it is a selected area how does it impact on danger to self and/or others, and/or Grave Disability?

Recent Discharge From Psychiatric Hospital

When was the person last in a psychiatric treatment facility?

What were the circumstances of their release?

Were they released by the Court?

Were they released against medical advice?

Did they AWOL from the facility?

Can it be shown that the patient has a pattern of not following through with treatment plans

Support System In The Community

Do they have family?

Is the family involved?

Do they have a long-standing placement to which they can return?

Is there someone who will help them? Do they live independent?

Are they current on mortgage/rent payments?

If they say they want to live on the streets, have they ever done that?

Are they homeless?

If they are homeless are they able to maintain on the streets?

Do they know how to get food?

Do they know about homeless shelters?

Motivation To Take Medications

Does this person take their prescribed medications?

Do they like to drink alcohol or take illegal drugs?

Is their living situation such that they can take medications and have their prescriptions refilled?

Have they taken medications in the hospital?

Have they taken medications in the past?

Do they have a problem with side effects?

Do they need any special ongoing test to be on the medication?

Are they taking more than prescribed on medications?

Are there any physical reasons that interfere with their taking psychiatric medications?

Do they understand the reasons for taking the medications?

If they recently stopped taking the medications, why?

Did someone take their medications away or tell them not to take them?

Do they feel medications have helped them in the past?

Do they see any reason for taking the medications?



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Who Is At Risk Patient's Proximity To, And Contact With This Person

Has the hospital done a Tarosoff?

Is there a restraining order?

Is it an identified person?

Is it any person who fits a certain description?

Has someone called and given information about threatening behavior from the patient?

Has the patient called and made threats?

Have the threats ever been acted on?

Has there been previous circumstance where the threats were carried out?

OVERVIEW OF THE PROBABLE CAUSE HEARING PROCESS

When a patient is hospitalized in a psychiatric hospital against his or her will, he or she is placed on a 72-hour hold (WIC 5150). At the end of the 72 hours or any time during the 72 hours, the doctor may decide to discharge the patient, have the patient sign into the hospital as a voluntary patient, or place the patient on a 14-day hold (WIC 5250). The doctor may place the patient on a 14-day hold if he or she feels the patient is a danger to self, danger to others, or gravely disabled (unable to provide food, clothing or shelter) due to a mental disorder. When the patient is placed on a 14-day hold, the hospital must notify the Superior Court, Mental Health Counselor's Office immediately (323) 226-2911.

Within the first four days of the 14-day hold a Probable Cause Hearing is scheduled at the psychiatric facility. The Mental Health Hearing Coordinator will notify the hospital of the date and time of the hearing. The hospital will be notified the afternoon before the scheduled hearing.

There are over 55 designated psychiatric treatment facilities in Los Angeles County conducting over 1400 hearings per month. It is extremely important that you notify the court when a patient, who has not yet had a hearing, signs voluntary or is discharged.

Attempts are made to accommodate doctor's hours. If a hearing is scheduled, a professional staff member must present for the hospital.

At the probable cause hearing there is a patient's rights advocate who is there to help the patient, the patient, the doctor or a hospital staff person to present information for the doctor and/or hospital and the hearing referee. The Court when needed provides an interpreter for the patient



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Family members are discouraged from attending the hearings. If the patient wishes to have a family member present, the person may be admitted to the hearing as an observer. If the family member wished to present information supporting the hospitalization they are encouraged to give the information to the hospital presenter and let them provide the information at the hearing.

This process helps alleviate any potential hostility or alienation which might develop because of the patient wishing to be released from hospitalization and the family member feeling they should remain in the hospital for further treatment. If the family member has information supporting the patient being released from the hospital, they should likewise give this information to the patients' rights advocate who will present the information at the hearing.

The probable cause hearings are administrative hearings. This means that they are much less formal than judicial hearings and those legal rules, such as rules of evidence (i.e., hearsay information) do not apply. The purpose of the hearing is to gather as much information as possible so the hearing referee can decide probable cause.

It is the responsibility of the hospital presenter to explain to the hearing referee:

- (1) the events and patient's behavior leading up to the patient's hospitalization,
- (2) the patient's behavior during his hospitalization which illustrates his or her mental disorder and his or her dangerousness or his or her grave disability,
- (3) previous psychiatric history,
- (4) living arrangements before hospitalization and plans after discharge,
- (5) patients' diagnosis,
- (6) medications currently prescribed.

It is the responsibility of the patients' rights advocate to present the patient's point of view. It is the job of the advocate to attempt to gain the patient's release from the hospital if that is what the patient desires, though the release may not be in the patient's best interest. This is the advocate's job no matter what they feel personally.

If the hearing referee determines that there is probable cause for the patient to remain in the hospital, he or she will inform the patient of his decision and the reasons for that decision. The referee will attempt to inform the patient in a way that the patient will understand. The referee will also indicate that the patient has other legal options open to him or her, which the advocate will explain. If the patient desires to file a Writ of Habeas Corpus, the hearing referee will file the papers for him with the court.

If the hearing referee determines that there is no probable cause, he or she will inform the patient and hospital representative of his or her decision and will explain the reason for his or her decision. If the hospital and the patient agree, the hospital may accept the patient as a voluntary patient then. If not, the patient must be discharged from the hospital.



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PRESENTATION INFORMATION PROBABLE CAUSE HEARING

Download a form which can be used by the facility representative when presenting information at the probable cause hearing.

Medication Capacity

5150: 72 hour hold

5250: 14 day hold

55260: Additional 14 day hold

5270.15: Additional 30 day hold

5300: 180 day post certification

(NOTE: Medication Capacity hearings for persons on a temporary conservatorship are held in Department 95A)

THE CONDUCT OF RIESE HEARINGS INFORMATION BOOKLET FOR DOCTORS AND HOSPITALS

View [The Conduct of Riese Hearings Information Booklet for Doctors and Hospitals](#).

MEDICATION CAPACITY PETITION

View the [Petition and Declaration Regarding Capacity to Give Informed Consent to Medication \(Riese Petition\)](#).