WIC 5150 and 5585 Involuntary Detention Manual

San Francisco Health Network
Behavioral Health Services

Updated as of January 2024

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EMERGENCY	**911**
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Dore Urgent Care Clinic-provides psychiatric crisis care for adults not needing hospitalization	415-553-3100
Comprehensive Crisis Services The Comprehensive Mobile Crisis Unit provides 24/7 emergency mental health services for both adults and children	628-217-7000
Golden Gate Bridge Sergeant-to report people threatening to jump	415-923-2220
Suicide Prevention-24 hour crisis line	415-781-0500
Friendship Line for the Elderly-24 hour crisis line	1-800-971-0016
HIV Crisis-provides psychiatric crisis services for HIV+ individuals	415-476-3902
Adult Protective Services https://www.sfhsa.org/services/protection-safety/adult-protective-services https://sanfrancisco.leapsportal.net/LEAPSIntake/NewPublicIntakeReport.aspx	415-557-5230 1-800-814-0009
Child Protective Services	415-558-2650 1-800-856-5553
Westside Community Crisis & Outpatient Clinic-provides walk-in services 245 11th Street (between Howard & Folsom Streets)	415-355-0311
Animal Care Control	415-554-9400
Ambulance Services-possible transport American Medical Response King-American Pro Transport St. Joseph's Bayshore	 415-931-3900 415-931-1400 1-800-650-4003 415-921-0707 1-650-525-9700
Behavioral Health Access Line provides information, referral and connection to mental health and substance use services; 24/7	1-888-246-3333
Edgewood Crisis Stabilization Unit-provides crisis care for minors	415-682-3278
Poison Control	1-800-222-1222
Psychiatric Emergency Services, Zuckerberg San Francisco General (PES)	628-206-8125
San Francisco Mental Health Clients' Rights Advocates	415-552-8100 1-800-729-7727
San Francisco Police Department, Psychiatric Liaison Unit	628-206-8099

INTRODUCTION

The San Francisco Department of Public Health, Behavioral Health Services (SFDPH) provides a manual, training, and certification in respect to the Welfare and Institutions Code (WIC) to ensure consistent and appropriate use of this authority. A WIC 5150 is an involuntary psychiatric hold authorized by the Lanterman-Petris-Short (LPS) Act of 1972. A WIC 5150 is an application to detain an individual who is deemed to be a Danger to Self, a Danger to Others, or Gravely Disabled, for psychiatric and medical evaluation, assessment, and/or treatment. For findings of Danger to Self and Danger to Others, it requires that their presentation is due to a mental health disorder, whereas grave disability must be due to a mental health disorder, a severe substance use disorder, or a co-occurring mental health and substance use disorder.

San Francisco believes in the wellness, treatment, and freedom of all those who receive medical and mental health care. Despite the hope that treatment can be voluntary, it sometimes becomes necessary to hold someone against their will. This can happen if they become a danger to themselves or others, or if they become Gravely Disabled individual. In these situations, the County has granted a select few the ability to detain those who require it through the use of WIC 5150 and WIC 5585 holds. It is our expectation that those who find it necessary to write a 5150/5585 WIC hold do so with compassion, kindness, and thoughtfulness. Most importantly, we hope all those granted this ability will take the time to consider all available options carefully and act with altruism, cultural awareness, and an understanding of the stigma often associated with mental health and substance abuse challenges.

The WIC 5150/5585 Involuntary Detention Manual

This manual is intended to provide qualified, authorized, or certified first responders, physicians, and behavioral health professionals working and practicing in San Francisco County with a detailed overview of the legal requirements involved in initiating 72-hour holds, the first step in the civil commitment process. The goal of this manual is to ensure that WIC 5150 authority is exercised in a professionally responsible manner and according to law.

The Welfare and Institutions Code WIC 5150 Training Course

SFDPH also provides the Welfare and Institutions Code (WIC) 5150 training course. This course is a requirement to be authorized by SFDPH to write WIC 5150 holds under the authority of the Director of Behavioral Health.

The core objectives of the course are to teach you how to evaluate if an individual with a mental health and/or severe substance use disorder meets the legal criteria to be placed on a WIC 5150 hold for Danger to Self, Danger to Others, and/or Grave Disability. In this course, you will learn:

- How to evaluate both adults and minors for involuntary holds.
- Individuals' rights.
- How to recognize when an individual is potentially dangerous.
- Tips to protect yourself and manage a crisis situation while you are evaluating an individual for a WIC 5150/5585 hold.

- How to complete the WIC 5150/5585 application accurately and where to send the copy of the hold.
- Mandated reporting responsibilities and procedures for mental health professionals and physicians.

Attendance at the WIC 5150/5585 Involuntary Detention Training and obtaining a passing score of at least 80% on the post-test is mandatory for any eligible staff seeking authorization. Please note, your WIC 5150 and/or WIC 5585 authorization is pursuant to all relevant state and local laws and policies, is limited to your scope of work, and may be revoked at any time.

All providers need to abide by the most recent policy issued by the Director of Behavioral Health as well as any relevant policies from other partner agencies. The most current policy can be found on the SFDPH website.

Assumptions, General Agreements and Principles of the Lanterman-Petris-Short Act (LPS) in the County of San Francisco

- Behavioral health is a community responsibility. No single agency, organization, or facility in the community has the resources, scope of services, or skill sets to address the challenges on their own. The County of San Francisco places a high value on the respectful and collaborative process used to develop this protocol and is committed to using that same process as this protocol is implemented and refined over time.
- Our shared goal is to ensure access to the best possible treatment, at the right time and in the best place for each individual. This commitment will allow for the care provided to be with the greatest respect for the rights of individuals.
- We agree to leverage the competencies of our community partners and to share training and knowledge.
- We are committed to maintaining the safety of individuals and the community. At times, this may make involuntary treatment necessary.
- Individuals may need treatment at all levels of care, and we are committed to the coordination of that care to ensure the best mental and physical treatment.
- We are committed to reducing stigma, discrimination, and increasing cultural humility, in our culturally and ethnically diverse county.

DEFINITIONS

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

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

Gravely Disabled-Adult: A condition in which an individual, as a result of a mental health disorder, severe substance use disorder, or a co-occurring mental health disorder and substance use disorder (rather than a chosen lifestyle or lack of funds), is unable to provide for his or her basic personal needs for food, clothing, shelter, personal safety or necessary medical care (WIC 5008).

Courts have ruled that if an individual can survive safely in freedom with the help of willing and responsible family members, friends or third parties, then he or she is not considered Gravely Disabled.

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

LPS Conservatorship: An LPS conservatorship results when the court appoints a legal guardian to manage the behavioral care of individuals who are Gravely Disabled. A conservator has the authority consent to behavioral health services on an individual's behalf and, in some circumstances, consent to limited medical interventions and medications necessary to treat the behavioral health condition.

LPS Designated Facility: Typically, a hospital facility which has received designation from Behavioral Health Services to evaluate and treat involuntary psychiatric individuals.

Medical Treatment: In certain circumstances involuntary detentions under LPS may be used to compel or justify non-psychiatric medical treatment.

Mental Health Disorder: The term mental health disorder is not defined by law. The initiator of a WIC 5150 is not required to make a mental health diagnosis. The initiator must be able to articulate the manifested behavioral symptoms of a mental health diagnosis. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder. (WIC 5585.25). This may include diagnoses including thought or mood disorders.

Necessary Medical Care: Care needed to prevent serious deterioration of an existing

physical medical condition, which if left untreated, is likely to result in serious bodily injury.

Non-designated Facility: A hospital or other facility which does not hold LPS Designation.

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

Personal Safety: The ability of one to survive safely in the community without involuntary detention or treatment.

Probable Cause: is the legal standard we use to determine whether or not an individual meets the criteria for an application due to a behavioral health and/or severe substance use disorder. When enacted in 1967, section WIC 5150 of the LPS Act required only “reasonable cause” for detention. This section was amended in 1975 to require “probable cause” for detention.

Probate Conservatorship: A probate conservatorship results when the court appoints a legal guardian for managing financial affairs or the medical care of one who is either physically or mentally unable to handle either or both. This conservatorship is commonly used for those with dementia.

Public Conservator: The Office of the Public Conservator through the Department of Disability and Aging Services. San Francisco County’s the county agency which functions as the legal guardian for conserved individuals when no more appropriate person is able to be appointed legal guardian.

Serious Bodily Injury: an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation. (Health and Safety Code 15610.67)

Severe Substance Use Disorder: The term substance use disorder is specified as being diagnostic criteria for a severe substance use disorder under the most recent Diagnostic and Statistical Manual. Currently, this requires the presence of at least six symptoms, out of at least eleven possible symptoms, pursuant to the DSM-5. The initiator of a WIC 5150 is not required to make a substance use disorder diagnosis. The initiator must be able to articulate the manifested symptoms of a substance use disorder diagnosis.

Welfare and Institutions Code (WIC) 5000: The LPS Act is codified in California’s Welfare and Institutions Code, referred to in this manual as WIC.

WIC 5150 Authorization Card: A small, wallet-sized card issued by the San Francisco Department of Public Health’s Director of Behavioral Health, which identifies the holder as having the authority to initiate and sign Applications for 72 Hour Detention for Evaluation and Treatment, pursuant to WIC 5150.

LANTERMAN–PETRIS–SHORT ACT (LPS ACT)

Overview

In the late 1960's, the California Legislature instituted a groundbreaking bill to change how individuals with mental disabilities were to be treated in this State: The Lanterman-Petris-Short Act of 1967 (referred to in this manual as the LPS Act). The law was hailed across the country as the most progressive and humane piece of legislation to date. It was mandated that individuals must be treated in the least restrictive setting and given the right, just as any individual, to be heard in court when detained involuntarily.

An individual who is placed on an involuntary hold is, by definition, having their basic rights curtailed. Consequently, in the California cases evaluating the potential for rights deprivations, the courts have repeatedly affirmed the Legislature's intent that the rights of involuntarily detained individuals with psychiatric disabilities be protected by the Lanterman-Petris-Short Act. (e.g., Keyea v. Rushen 178 Cal. App. 3d at p. 534, 228. Cal. Rpt 746). The LPS Act expressly guarantees a number of legal and civil rights and provides that individuals who are involuntarily detained retain all rights not specifically denied under the statutory scheme. The provisions of the LPS Act are codified in California's Welfare and Institutions Code (WIC), Community Mental Health Services division, Sections 5000 – 8000.

Legislative Intent

The LPS Act, also known as the California Mental Health Act, begins by promoting the legislative intent:

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

Prior to the LPS Act

The LPS Act repealed the previously existing indeterminate civil commitment scheme. It also removed legal liabilities previously imposed upon those adjudicated to be mentally ill. To illustrate, prior to the LPS Act, once the judge determined the individual to be "mentally disordered" or "insane" through a hearing that frequently took 2-3 minutes, the individual was

automatically and indeterminately stripped of any meaningful decision-making authority over one's life.

The blanket imposition of these legal liabilities not only deprived one of the rights to make any treatment decisions, but also resulted in deprivations such as the automatic loss of the right to manage one's own money, to vote, marry, or have any control over one's reproductive choice. Forced sterilization of people with psychiatric disabilities was not uncommon. Lobotomies were performed for reasons such as repeatedly assaultive behavior or to treat "mental disorders" such as homosexuality.

Revisions to the LPS Act

Senate Bill 364 (SB 364) represents the first significant modernization of the involuntary detention procedures since LPS was enacted in 1967. The changes took effect on January 1, 2014. Highlights of these changes include:

- Eliminated outdated staffing requirements for designated facilities.
- Expanded the types of designated facilities such as 23-hour crisis stabilization units and psychiatric health facilities.
- Requires all designated facilities be mental health treatment facilities licensed by the state.
- Provides procedures for assessment and evaluation of detained individuals not taken directly to a designated facility (e.g., discharging individuals from custody who no longer need involuntary treatment without first being transported to a designated facility, 72-hour detention period begins at the time of being taken into custody).
- Emphasizes that services be provided on a voluntary basis if appropriate.
- Removed obsolete and stigmatizing language (e.g., changes *mental disorder* to *mental health disorder*).
- Strengthens the protection of rights of people subject to detention.
- Requires a completed WIC 5150/5585 application stating *probable cause* be required by all admitting designated facilities.
- Added language to the WIC 5150/5585 detainment advisement (e.g., *turning off appliances and water*, providing a written advisement if the individual cannot understand the oral advisement).
- Added language to the admitting designated facility's advisement (e.g., informing individuals of their treatment options, their right to contact a individuals' rights advocate, to receive the admission advisement in a language or modality that they can understand).

Assembly Bill 1194 (AB 1194) was signed into law and went into effect on January 1, 2016. Highlights of these changes include:

- The individual determining if probable cause exists pursuant to WIC 5150 shall not be limited to consideration of the danger of imminent harm.
- The determination shall include relevant information about the historical course of the individual's mental health disorder if the information has a reasonable bearing on the

determination of probable cause and, if so, to be recorded as such on the WIC 5150/5585 application.

The following two amendments to the LPS Act were signed into law and became effective on January 1, 2019:

- **Assembly Bill 2099 (AB 2099)** clarified that a completed and signed copy of the WIC 5150/5585 application must be honored as an original.
- **Assembly Bill 2983 (AB 2983)** established that a general acute care hospital or an acute psychiatric hospital cannot insist that an individual voluntarily seeking mental health care be first placed on a WIC 5150/5585 involuntary hold as a condition of admission.

Assembly Bill 1968 (AB 1968) went into effect January 1, 2020, and established a lifetime prohibition on gun ownership for those individuals involuntarily admitted on a 72-hour hold for Danger to Self or Others more than once during a 12-month period.

Senate Bill 929 (SB 929) went into effect September 8, 2022, and requires counties to collect and report data quarterly. This includes quantitative, deidentified information relating to, among other things, the number of persons in designated and approved facilities admitted or detained for 72-hour evaluation and treatment, clinical outcomes and services for certain individuals, waiting periods prior to receiving an evaluation or treatment services in a designated and approved facility, demographic data of those receiving care, the number of all county-contracted beds, and an assessment of the disproportionate use of detentions and conservatorships on various groups.

Assembly Bill 2242 (AB 2242) went into effect July 1, 2023, requires that a care coordination plan be developed and provided to an individual before being discharged from a hold, with a particular focus on supporting meaningful linkages to care. This care coordination plan is developed by, at a minimum, the individual, the facility, the county behavioral health department, the health care payer, if different from the county, and any other individuals designated by the individual as appropriate. The care coordination plan 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.

Senate Bill 43 (SB43) went into effect January 1, 2024, and expands the definition of Grave Disability to include severe substance use disorder, inability to maintain personal safety, and not seeking necessary medical treatment.

- The new definition of Grave Disability is: A condition in which an individual; as a result of a mental health disorder, a *severe substance use disorder,* or a co-occurring mental health disorder and a substance use disorder; is unable to provide for his or her own basic personal needs of food, clothing, shelter, *personal safety or necessary medical care.* (New language is indicated in *italics*.)
- Definition applies to WIC 5150, WIC 5250, WIC 5270 holds and LPS conservatorships.
- “Severe” substance use disorder is defined as: a presence of at least six symptoms, out of at least eleven.
- Personal safety is defined as: the ability of one to survive safely in the community without involuntary detention or treatment.

- Necessary medical care is defined as: care needed to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury.

How to Interpret the LPS Act

According to Welfare and Institutions Code Section 5001 (WIC 5001), all provisions of the LPS Act are to be interpreted to promote the following legislative purposes:

- To end the inappropriate, indefinite, and involuntary commitment of individuals with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities.
- To provide prompt evaluation and treatment of individuals with mental health disorders or impaired by chronic alcoholism.
- To guarantee and protect public safety.
- To safeguard individual rights through judicial review.
- To provide individualized treatment, supervision, and placement services by a conservatorship program for individuals who are Gravely Disabled.
- To encourage the full use of all existing agencies, professional, personal, and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures.
- To protect individuals with mental health disorders and developmental disabilities from criminal acts.
- To provide consistent standards for protection of the personal rights of the individual receiving services under this part and under Part 1.5 (commencing with WIC 5585).
- To provide services in the least restrictive setting appropriate to the needs of each individual receiving services under this part and under Part 1.5 (commencing with WIC 5585).

PLACING INVOLUNTARY HOLDS: THE BASICS

The LPS Act provides specific guidelines for the commitment of individuals with mental health disorders and/or severe substance use disorders and provides protection for the legal rights of such individuals. The authority for initially detaining an individual for involuntary mental and medical health evaluation and treatment is found in the Welfare and Institutions Code Sections 5150-5155 and Sections commencing with 5585.

What Is a WIC 5150/5585 Hold?

A WIC 5150 is a 72-hour hold that may be placed on an adult meeting specific criteria (to be specified later in this manual) by certain authorized individuals in the City and County of San Francisco. Placing this hold allows authorized individuals to take an individual into custody and place them in a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation. (WIC 5150) A WIC 5585 hold is a similar process, but for children and minors under the age of 18.

These 72-hour holds are an application for involuntary admission, not an order for admission. They get the individual to a facility and trigger an assessment:

> "The professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention. If, in the professional's judgment, the person can be properly served without being detained; then they shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis." (WIC 5151)

Involuntary detention is not an arrest. Individuals involuntarily detained retain the due process rights guaranteed by statute, common law, and state and federal constitutional provisions. These rights are detailed in this manual's section entitled "Overview of LPS Individuals' Rights."

Who Can Place a WIC 5150/5585 Hold

The individual who takes an individual into custody can be a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, a member of the attending staff 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 (WIC 5150).

Certification

To place a WIC 5150 hold in the City and County of San Francisco, one must receive certification.

Individuals eligible for certification:

- Licensed mental health professionals and other related professionals who work in an LPS designated facility (e.g., Psychiatric Emergency Services).
- Licensed physicians who work in a hospital medical emergency department or other designated hospital settings, or other designated entities as approved by the Director of Behavioral Health.

- Licensed mental health professionals and other related licensed professionals who work in authorized facilities or community health settings.
- Board registered (unlicensed) mental health professional functioning under the supervision of a licensed mental health professional in an authorized facility or community health setting.
- Specially trained paramedics who work with the San Francisco Fire Department (SFFD) Community Paramedic Programs.

Individuals must be re-certified at least **every three years**.

Programs receive a facility certificate with authorized staff names and individual cards are issued to all staff. Certified staff have the authority to institute and detain individuals on a hold ***while they are employed and on duty*** for the program for which they are certified. If an individual is employed by more than one authorized site, one can be certified at these sites and does NOT need additional training. When a staff member leaves and moves to another employer that has a facility certificate, that employee may transfer their certification to the new program without re-training as long as it is within the certification period.

Note that San Francisco County has designated Child Crisis Services (CCC) with the primary responsibility for conducting the 5585 WIC evaluation of any minor in San Francisco County. CCC and Edgewood have the sole responsibility for authorizing inpatient psychiatric admissions for all publicly funded children and youth. This includes minors who are uninsured or are San Francisco Medi-Cal beneficiaries (see BHS policy 3.03-1).

The Purpose of an Involuntary Hold

The legislative intent of the LPS Act includes providing prompt evaluation and treatment of individuals with serious mental health disorders and severe substance use disorders. Assessment for these WIC 5150 holds is the first step towards obtaining evaluation and treatment for the individual. If it is determined that an individual meets the criteria, they may be placed on a WIC 5150 for a legal authority to detain a person involuntarily so the person may be transported to facility, where a face-to-face assessment must be completed before they can be admitted to the hospital. A WIC 5150 is a hold for an assessment that can last up to 72 hours but does not require that a person be held for that individual time, only as long as is necessary to conduct an evaluation.

The Requirement of Offering Voluntary Services

You should note that when an individual is being assessed for a 72-hour application, and they are willing to accept voluntary services, a 5150 hold **MAY NOT** be placed, and alternative voluntary services **shall** be offered per WIC 5150.3.

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

Probable Cause

Probable cause is a legal term used to describe the level of evidence needed. In the case of criminal law, some are familiar with the term beyond a reasonable doubt or preponderance of the evidence, which is also a term to describe the level of proof. Probable cause established by the presence of facts that would lead an individual of ordinary care and prudence to believe, or entertain a strong suspicion, that the individual involuntarily detained under the LPS Act suffers from a mental health and/or severe substance use diagnosis, and is a danger to themselves, a Danger to Others, or Gravely Disabled. Probable cause must be based on specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the belief or suspicion that the person is a danger to themselves or others (as a result of a mental health disorder) or is Gravely Disabled (as a result of a mental health disorder and/or severe substance use disorder). Probable cause requires some objective, verifiable evidence of dangerousness or grave disability (People v. Triplett (1983)).

This will be discussed in greater detail in the section "WIC 5150 Evaluation: Making a Determination of Danger To Self, Danger To Others, and/or Grave Disability**,"** but the probable cause for grave disability may never be based solely on refusal to accept behavioral health and/or medical treatment or other resources (including shelter). The LPS Act conspicuously does not state that the individual is Gravely Disabled solely because they refuse treatment for a behavioral health disorder. In short, the structure of the LPS Act preserves the right of non-dangerous individuals to refuse treatment as long as they can provide for their basic needs, even if they have been diagnosed as mentally ill (Conservatorship of Walker, 196 Cal.App.3d 1082 (1987)).

The following sub-sections provide examples of what could constitute probable cause across the three main criteria.

Criteria and Context for Placing WIC 5150/5585 Holds

The criteria are specified in Welfare and Institutions Code Sections 5150 and 5585.

In order to place an involuntary hold, the following criteria must be met:

1. The individual is at risk of Danger to Self and/or to others and/or is Gravely Disabled; **AND**
2. The Danger to Self and/or others is the result of a mental health disorder either temporary or prolonged and/or the grave disability is the result of a mental health disorder either temporary or prolonged, a severe substance use disorder or a co-occurring mental health and substance use disorder;
    a. **AND**
3. The individual is unable or unwilling to voluntarily receive psychiatric treatment or otherwise commit to a safety plan.

Danger to Self, Danger to Others, and Grave Disability

As shown above, there are three separate criteria available as the basis for detention and transport pursuant to WIC 5150: (1) Danger to Self, (2) Danger to Others, and (3) Gravely Disabled. The designee must find that the subject of the WIC 5150 fits **at least one** of these three criteria.

Connecting Cause and Effect
In addition, a connection must be established between these criteria and certain health disorders, in order to show that the disorder is the cause of the resulting behavior:

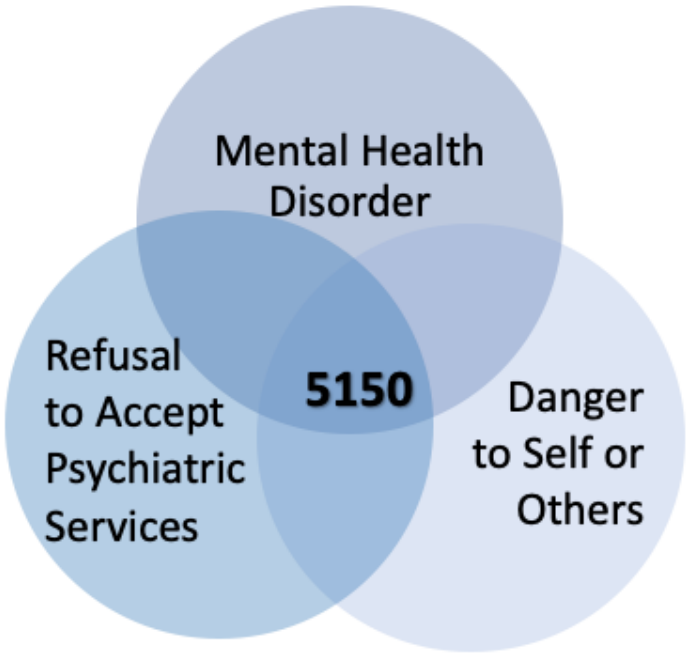
- The finding of danger to oneself or others must show evidence of an existing mental health condition that in contribution to these criteria.
- The condition of grave disability must show evidence of an existing a mental health disorder, a severe substance use disorder, or a co-occurring mental health and severe substance use disorder.

Meeting the Legal Standard for Voluntary Services
Finally, the legal standard for voluntary patient status must also be met, which means that the facility must determine if the individual is willing or able to accept treatment on a voluntary basis.

<u>The chart below shows how information must be assessed across these three categories:</u>

Main criteria for the basis of detention	**Showing evidence that the criteria for detention are caused by a specific condition**	**Showing that the legal standard for voluntary individual status was met**
(1) Danger to self, and/or (2) Danger to others, and/or (3) Gravely disabled.	Must show the connection to a mental health disorder for Danger to Self or Others. Must show a connection to mental health and/or a severe substance use disorder for grave disability.	Facilities must determine if the patient is willing or able to accept treatment on a voluntary basis.

A visualization of criteria for making a determination of Danger to Self or Others:



A visualization of criteria for making a determination of Gravely Disabled:

More details on how to assess for these criteria is provided in the section "WIC 5150/5585 Evaluation: How to Conduct Them and What to Assess."

CIVIL COMMITMENT LAWS AND PROCEDURES FOR VOLUNTARY AND INVOLUNTARY PATIENT STATUS

Legal Standard for Voluntary Patient Status

All civil committed involuntary individuals must be advised of the ability to receive mental health treatment on a voluntary basis (WIC 5250(c)). Therefore, it is necessary that the facility make a determination of whether the individual is willing or able to accept treatment on a voluntary basis.

The legal standard for voluntary treatment of an individual is that the individual is "willing or able to accept treatment on a voluntary basis." Individuals may be voluntary because 1) they are not dangerous to themselves, dangerous to others, or Gravely Disabled and they request treatment or, 2) they are dangerous to themselves or others or Gravely Disabled, but they are willing and able to accept treatment. In both cases, the individual fails to meet the criteria for involuntary commitment, but for different reasons.

Legal Rights of Voluntary Individuals

- **The right to discharge themselves from a facility at any time.** The significance of a voluntary individual's right to leave any time is emphasized by the fact that is specifically stated in four separate sections of the LPS Act (Welfare and Institutions Code Sections 6000(e), 6002(c), 6005, and 6006) and again in the implementing regulations of the California Code of Regulations, Title 9, Section 865. This section states that a facility has an affirmative obligation to inform a voluntary individual of the right to be discharged at any time. This information must be given at the time of admission.
- **The right to refuse anti-psychotic medication.** Voluntary individuals have an explicit right to accept or refuse anti-psychotic medication after being fully informed of the risks and benefits of such treatment. California Code of Regulations, Title 9, Sections 850-856 describe the specific criteria which must be met in order for facilities to meet their duty to properly inform voluntary individuals of the risks and benefits of a proposed treatment plan.
- **The right not to be placed in seclusion and/or restraint in a non-emergency situation.** The law intends that voluntary individuals not be subject to seclusion and restraint. Any use of seclusion and restraint must meet the legal criteria for emergency and be accompanied by an evaluation of appropriate legal status.

Legal Standard for Involuntary Detention (72-Hour Hold)

Procedures for involuntary commitment of an individual for mental health treatment is governed by the Lanterman-Petris-Short (LPS) Act of 1967, codified in the California Welfare and Institutions Code (W&I Sections 5000 et. seq.). The LPS Act provides specific guidelines for the commitment of individuals with mental health disorders and/or severe substance use disorders and provides protection for the legal rights of such individuals. The authority for initially detaining an individual for involuntary mental and medical health evaluation and treatment is found in the Welfare and Institutions Code Sections 5150-5155 and Sections commencing with 5585.

The individual who takes an individual into custody can be a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, a member of the attending staff 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 (WIC 5150).

See “Overview of LPS Individuals’ Rights” for more information on the legal rights of involuntary patients.

CRISIS MANAGEMENT

The conditions that call for an involuntary hold often reflect a time of crisis for the person being evaluated, as well as for their community. It can also be a stressful experience for the staff who are navigating this process.

Staff members are encouraged to consult and seek support throughout the course of the evaluation as needed. This can include enlisting support from other staff members within your program or from outside agencies.

As part of effectively managing a crisis situation, it is important to:

- Consider the safety of others including yourself, other staff and individuals, and family;
- Consider if the individual needs an urgent medical evaluation;
- Have others present as back-up; and
- Request that police be present if the individual is violent and presenting a public safety risk.

Tips For Conducting Assessments in High-Stress or Dangerous Situations

Your approach and mindset: It is vitally important that the individual in crisis feels that they are being heard.

- Focus on the individual's worldview.
- Focus on behavior.
- Avoid speaking for the individual.
- Do not challenge the abilities of the individual in crisis by asking complex questions.
- When setting limits, make sure they are clear, reasonable, and enforceable.
- Be patient.
- Avoid predicting future events and making promises.
- Be genuine and authentic.
- Remain issue and problem-solving oriented.

Your language and tone:

- Use simple and concrete terms.
- Be mindful of your tone, volume, and tempo of speech.
- Speak clearly.

Your physical demeanor:

- Have an open and relaxed posture: keep hands in view, with a neutral, respectful stance. Don't adopt a defensive posture (arms and feet crossed; chair leaning back; hands in pockets or hidden behind you).

Your safety and personal well-being:

- Consider your own personal safety – ask for additional staff if you feel anxious.
- Be thoughtful about where you are going to meet with the individual, considering safety and well- being of the individual and staff.
- Leave a way open for flight – be aware of exits for both you and the individual.
- If an individual presents with significant anger, acknowledge their anger and ask if staff is in immediate risk.

The individual's safety and well-being:

- Allow individual to take breaks and engage in coping skills as needed.
- Avoid discussing triggers until the individual is de-escalated and it feels safe to do so.
- Validate the individual's emotions even when you cannot validate their behavior.

Your assessment:

- Assess present cognitive and affective state.
- Consult with any other staff or collateral contacts that may have knowledge of current or present stressors, risk factors, or protective factors.
- Assess role of external and internal factors – restructure the physical setting to decrease stimuli.
- If at all possible, determine past history of violence.

Procedural Considerations When Placing a 5150 Hold

Staff should stay with the individual at all times throughout the evaluation and monitor the individual while waiting for transport. Continue to assess for safety until transport arrives and provide what the individual needs in order to feel safe while waiting (e.g., quiet office, tea). Evaluate the need for police back up and call 911 if there is an immediate risk of public safety. Provide the 911 operator a full description of the imminent risk, your name and relationship to the person, description and location of the person, and a description of yourself if out in the field so that the police can identify you.

Once transport arrives, introduce yourself to the first responder and explain the risk and reason for the detainment. Be very specific about what prompted you to write the hold as an individual's demeanor can change upon seeing the presence of transport. Give the completed application to the first responder to facilitate transportation and provide to the receiving facility. Contact the receiving facility to provide pertinent information about the individual. Providers of ongoing care for the individual are encouraged to be assertive about calling ZSFG Psychiatric Emergency Services or the inpatient unit for clinical updates and discharge planning.

Procedural Options Once an Individual Reaches a Treatment Facility

It is important to remember that once you have submitted an involuntary hold application, there are different outcomes that could result.

- Most adults arriving at ZSFG Psychiatric Emergency Services do not get admitted to inpatient psychiatric units.
- Individuals will not be detained for the full 72-hours if criteria are not met or can be properly served without being detained.
- Individuals may return to baseline rapidly and the hold discontinued.

Staff Needs

Programs are advised to consider the needs of staff following a WIC 5150/5585 incident and to provide support, debriefing, and/or case review as indicated.

WIC 5150/5585 EVALUATION: HOW TO CONDUCT THEM AND WHAT TO ASSESS

Where to Conduct

The assessment needs to be conducted face-to-face and in a location that is as safe and conducive to an evaluation as possible.

Primary Goals of Assessment: A Recap

The primary goals of the assessment are to determine if:

- The individual is at risk of Danger to Self and/or to Others and/or is Gravely Disabled; **AND**
- The Danger to Self and/or Others is the result of a mental health disorder either temporary or prolonged and/or the grave disability is the result of a mental health disorder either temporary or prolonged, a severe substance use disorder, or a co-occurring mental health and substance use disorder; **AND**
- The individual is unable or unwilling to voluntarily receive psychiatric treatment or otherwise commit to a safety plan.

As you do your assessment, is important to keep in mind that you will need to document in the individual's medical record the risk factors you observed and how you assessed and addressed these risks. Documentation is addressed in detail in "The 5150/5585 WIC Application" section later in this manual. In brief, it should include the following where applicable:

- Threats or attempts to harm self or others.
- Expressed intention to engage in dangerous activity.
- Means available to carry out threats.
- Plan to harm self or others.
- Indications of grave disability.
- Reports by others that they are concerned about the individual.
- Collateral contacts with providers and family members if available.
- Any safety measures taken including a safety plan to reduce risk and follow up plan with the individual.
- Identified protective factors including those that can be enhanced.

Reporting Requirements

If you become aware of concerning information during the course of an evaluation, understand that you may also be required by law to file a mandated report (see BHS policies on special situations governing release of information: 3.06-09: *Duty to Warn & Protect;* 3.06-11: *Child Abuse & Neglect Reporting Act;* 3.06-13: *Elder & Dependent Adult Reporting Requirements)*. Note that staff may have additional reporting requirements as well (e.g., BHS incident reporting,

State licensing). More information can be found in the "Duty to Report" section later in this manual.

Overarching Considerations for Your Assessment

To follow are important indicators that could inform your determination. While they are mostly relevant to determining Danger to Self and/Or Others, some also relate to assessing for Grave Disability.

Possible WARNING SIGNS may include:

- Words or actions threatening suicide or homicide or expressing a strong wish to die or harm others including threats against public locations.
- Words or actions indicating gross disregard for personal safety or the safety of others.
- Signs of mood disturbance including low mood, anxiety, guilt, purposelessness, hopelessness, worthlessness, rage or anger, agitation, sleep or appetite changes, withdrawal and isolation, impulsivity or behaving recklessly.
- Words or actions indicating a specific plan such as giving away possessions or obtaining means of harming self or others such as purchasing a weapon, rope, poisons, or medications.
- Increased use of alcohol or drugs.

RISK FACTORS include:

- Previous threats or attempts at harming self or others.
- Mental health disorders particularly mood disorders, schizophrenia, anxiety disorders, and certain personality disorders.
- Alcohol and other substance use disorders.
- Impulsive or aggressive tendencies.
- Family history of self-harm or violence against others.
- History of trauma or abuse including prostitution and sexual exploitation.
- Physical illnesses or injury.
- Major loss (real or anticipated) such as financial, academic, relational, home, or death.
- Significant stressors such as unexpected pregnancy, family conflict, legal problems, relocation, failing school, sexual or gender identity conflicts, gang/peer pressures, subjected to bullying.
- Access to lethal means.
- Lack of social supports and isolation from activities and others that were once pleasurable, cultural isolation.
- Barriers to accessing care, or changes in care such as discharge from a psychiatric hospital, or treatment unresponsiveness.
- Exposure to the media, community, or others who have died by suicide or committed violence.

- Certain cultural and religious beliefs that encourage self-harm or personal endangerment.

When evaluating for risk of Danger to Self or Others, **ASSESS** for:

- **Ideation** – does the individual have thoughts about harming self and/or others (i.e., frequency, intensity, and duration of thoughts)?
- **Intent** – does the individual intend to harm or kill self and/or others (i.e., extent to which the individual is able to carry out the plan and believes the plan to be lethal vs. injurious)?
- **Lethality** – how lethal is the means for harming self and/or others?
- **Plan** – does the individual have a plan for harming self and/or others (i.e., timing, location, specificity, lethality, availability, rehearsals, and preparatory acts)?
- **Means** – does the individual have the means and opportunity to carry out the plan to harm self and/or others (e.g., stockpiled medications, possession of a gun, rope, ability to get to bridge)?

Consider the presence of **PROTECTIVE FACTORS** in your overall assessment of risk as these can help mitigate the level of risk for Danger to Self and/or Others and for Grave Disability. Protective factors include, but are not limited to, the following examples:

- Restricted access to lethal means.
- Effective clinical care.
- Easy access to supports.
- Strong family and community supports.
- Responsibility to children or beloved pets.
- Support through on-going health care relationships.
- Interpersonal skill in problem solving and conflict resolution.
- Ability to cope with stress.
- Adequate frustration tolerance.
- Cultural and religious beliefs that discourage self-harm and violence.

What DOES NOT Meet the Criteria

These conditions **DO NOT**, by themselves, constitute a mental disorder and would not meet the criteria for a WIC 5150:

- Epilepsy.
- Mental Retardation.
- Developmental Disabilities.
- Dementia/Alzheimer's.
- Repeated anti-social behaviors.

- Brain damage.
- Refusal to take psychotropic medication.

A Risk Framework and Action Steps

The following chart provides a framework for the risk information you are compiling in your assessments of Danger to Self and/or Others. Based on the level of risk, possible interventions vary, as will your determination regarding probable cause for an involuntary hold.

RISK LEVEL	RISK/PROTECTIVE FACTOR	SUICIDALITY/HOMICIDALITY	POSSIBLE INTERVENTIONS
High	Mental health disorder with severe symptoms, or acute precipitating event; protective factors not relevant.	Potentially lethal attempt or persistent ideation with strong intent or rehearsal.	Admission generally indicated unless a significant change reduces risk. Suicide/homicide precautions.
Moderate	Multiple risk factors, few protective factors.	Ideation with plan, but no intent or behavior.	Admission may be necessary depending on risk factors. Develop safety plan. Give emergency/crisis numbers.
Low	Modifiable risk factors, strong protective factors.	Ideation, but with no plan, intent, or behavior.	Outpatient referral, symptom reduction. Develop safety plan. Give emergency/crisis numbers.

***** This chart is intended to represent a range of risk levels and interventions, not actual determinations.

Safety Plan

A **Safety Plan** is developed with the individual and the involvement of others as needed (e.g., other providers, parent/legal guardian, family members, significant others, school personnel to reduce risk, stabilize the crisis, and to coordinate care. The components of a safety plan generally include:

- Provision for emergency contact and intensification of services.
- Anticipation of destabilizing events and plans to deal with them.
- Containment and added support as required.
- Continuous monitoring of risk factors and reassessment as the individual or environmental circumstances change.

WIC 5150 EVALUATION: MAKING A DETERMINATION OF DANGER TO SELF, DANGER TO OTHERS, AND/OR GRAVE DISABILITY

Determining Risk of Danger to Self

Definition
For the purposes of your assessment, you must find that - as a result of a mental disorder – the individual is suicidal (or expresses significant harm to self) or engaging in behavior that puts them at serious Danger to Self. Keep in mind that dangerous behavior can be intentional or unintentional.

Behavioral Examples
Listed below are examples of behaviors which, when they are a result of a mental disorder, often indicate that an individual meets WIC 5150 criteria for "Danger to Self" and is appropriate for involuntary commitment at a designated facility for psychiatric evaluation and treatment. These include, but are not limited to:

- The individual has indicated by words or actions the individual is having thoughts to commit suicide or inflict bodily harm on self.
- The individual's statements or actions indicate a specific plan, intent, and/or means by which to commit suicide or inflict harm to self and these means are within the ability of the person to carry out (person has access to the means).
- Intentional acts of self-harm.
- Behaviors that place an individual in harm's way.
- Symptoms that increase the likelihood of self-harm;
- The individual refuses to accept, or is unwilling or unable to obtain, psychiatric evaluation and treatment on a voluntary basis.

Evaluator Questions to Assist with Determination

- Does the individual have intent to harm themself? Ask the individual or a reliable witness who can report on current symptoms and behaviors that describe the intent.
- How does the individual intend to harm themself? What is the plan? Look for weapons, pills, or evidence of a plan – gas left on, jumping off a ledge, etc.
- Has the subject ever done anything to try to harm themself in the past? Past suicide attempts or dangerous behavior.
- If the individual did attempt to harm themself in the past, what did the individual do? Were prior attempts serious and/or lethal in nature?

Determining Risk of Danger to Others

Definition
Similarly, what constitutes a "Danger to Others" is not legally defined. Thus, there is no legal requirement for "intent" in order to find probable cause that an individual is a Danger to Others as a result of a mental disorder.

In your assessment, you must find that – as a result of a mental disorder – the individual expresses harm to others or demonstrates behavior that puts the safety of others at risk of serious harm. You must also keep in mind that dangerous behavior can be intentional or unintentional.

Behavioral Examples
Listed below are examples of behaviors which, when they are a result of a mental disorder, often indicate that an individual meets WIC 5150 criteria for "Danger to Others" and is appropriate for involuntary commitment at a designated facility for psychiatric evaluation and treatment:

- An individual has indicated by words or actions that the individual is having thoughts to cause bodily harm to another person.
- The individual's threats or intentions are specific as to the particular person/person(s) they would do harm to. (*If there is a specific individual identified this requires a Tarasoff consultation for possible reporting.)
- The individual identifies the plan, intent, and/or means by which they would do harm to another person and these means are within the ability of the person to carry out (person has access individual means).
- The individual is engaging in or intends to engage in behavior that is irrational, impulsive, or reckless nature, such as destruction of property or misuse of a vehicle as to put others directly in danger or harm.
- Symptoms that create the likelihood of harm to others.
- Intentional acts of harm to others.
- The individual's behaviors or words regarding intent to cause harm to another person based on, or caused by, the person's mental state, which indicates the need for psychiatric evaluation and treatment.
- The individual refuses to accept, or is unwilling or unable to obtain, psychiatric evaluation and treatment.

Additional Probable Cause Guidelines
Probable cause to believe that an individual is dangerous to others as a result of a mental disorder may be based on actions that are likely to cause harm to another. As with dangerousness to self, it is not necessary that the individual actually caused harm to another person.

A history of violence towards others may be considered in determining dangerousness. The more recent the dangerous behavior, the greater the consideration given. And, again, there must be a connection between the dangerousness and a mental health disorder.

Behaviors that threaten property alone do not necessarily equate to dangerousness to others.

Probable cause for dangerousness may be based on the combination of several behaviors and factors that the designee believes are the result of a mental health disorder.

Evaluator Questions to Assist with Determination

- Is the individual actively or passively engaged in violent or dangerous behavior?
- Does the individual state they are going to carry out violent or dangerous behavior?
- Does the individual have a plan to follow through with statements of harm to others?
- Does the individual have the means and access to the means to follow through with plan?
- Does the individual have a background of violence or dangerous behavior? Has the individual acted on plans of violent behavior in the past?

Determining Grave Disability - Adults

Definition

Welfare and Institutions Code §5008(h)(1)(A) defines the term “Gravely Disabled” for adults as, “A condition in which a person, as a result of a mental health disorder, severe substance use disorder, or a co-occurring mental health disorder and substance use disorder is unable to provide for his or her basic personal needs for food, clothing, shelter, personal safety or necessary medical care.”

Evidence of the inability to provide/utilize food, clothing, shelter, personal safety, or necessary medical care may include the following examples, which should be verified by observations of the evaluator and, when relevant, observations reported to the evaluator by reliable witnesses.

Overarching **warning signs** of grave disability may include:

- Signs of malnourishment or dehydration.
- Lack of sufficient clothing.
- Insufficient shelter or lack of shelter.
- Extreme lack of personal hygiene.
- Untreated serious medical conditions which are likely to result in serious bodily injury if not treated.
- Unsafe living conditions that put the individual at risk in the community.

While these warning signs may not in and of themselves show Grave Disability, they are areas that warrant attention in your evaluation, so as to determine if the root cause is due to a mental health or severe substance use disorder.

Behavioral Examples
Listed below are examples of behaviors which, when they are a result of a mental disorder and/or severe substance use, often indicate that an individual meets WIC 5150 criteria for "Gravely Disabled" and is appropriate for involuntary commitment at a designated facility for psychiatric evaluation and treatment:

- **FOOD:** The individual is malnourished and dehydrated; little or no food in house and the individual is not able to establish where or how the individual obtains meals; person does not have a plan for obtaining meals; unwillingness to eat when food is provided; person has reported they don't intend to eat; person has been losing substantial weight without reasonable explanation; person repeatedly eats items not ordinarily considered fit for human consumption; refusal to leave jail cell for multiple days and refusing food/water due to depression resulting in dehydration; irrational beliefs about food that is available (e.g., it's poisoned, inedible, etc.).
- **CLOTHING:** The individual regularly fails to wear clothing; individual is not wearing appropriate level of clothing necessary to ensure safety during prevailing climatic conditions; person does not have a realistic plan for obtaining clothing; destruction or giving away of clothing to the point where the individual cannot clothe self or unwillingness to clothe self when clothing is provided.
- **SHELTER:** Individual has no realistic plan for obtaining shelter; individual has a room but refuses to use it and instead sleeps outside in the backyard; individual sleeps in dangerous conditions like roof or other dangerous/unfit places that put the individual at risk of harm, breaks into buildings or homes for shelter.
- **PERSONAL SAFETY:** Senate Bill 43 added this to the definition of Grave Disability, effective January 1, 2024. It is defined as: "The ability to survive safely in the community without involuntary detention or treatment." Initial behavioral examples could include*: running in and out of traffic; being assaulted, abused, exploited, or victim of crime; unhygienic/uninhabitable conditions at home or other home safety issues such as arson; inability to care for hygiene, cleanliness, needles, which leads to illness (especially if doesn't rise to level of serious bodily injury); failure to thrive (may be a crossover with medical care); multiple near-fatal overdoses requiring inpatient hospitalization. (Note: Narcan reversals alone would not meet this criteria.)
- **NECESSARY MEDICAL CARE:** Senate Bill 43 also added this to the definition of Grave Disability, effective January 1, 2024. It is defined as: "Care needed to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury." Initial examples could include*: wound care and infection issues that are likely to lead to loss of limb or life if not treated; untreated comorbidities such as HIV, Diabetes, Cancer, liver/kidney disease that is life-threatening; extreme physical pain.

*Please note that Senate Bill 43 provides new guidance for the definition of Gravely Disabled. As this guidance becomes more established, these examples will be updated as needed.

This chart provides examples of what would and would not constitute being Gravely Disabled across these primary categories of human need:

	NOT GRAVELY DISABLED	GRAVELY DISABLED
Food:	Has adequate knowledge of his/her nutritional needs. If on special diet (diabetic, etc.) and can follow it with routine medical supervision. Is able to shop for food, prepare simple meals and/or order from a menu	Cannot distinguish between food and non-food. Endangers health by gross negligence in necessary diet. Demonstrates excessive and consistent food preferences or aversions which endanger health (except for religious reasons).
Clothing:	Dresses appropriately: buttons buttoned; zippers zipped; appropriate to season and situation. Can shop for clothing; make arrangements for laundry and/or cleaning. Can make or arrange for minor repairs. Knows to sort out the useful and wearable from the useless, worn out, etc.	Public nudity or "inadvertent" exhibitionism. Bizarre style of dress that would be apt to get individual into trouble (does not include unconventional dress that is used by any social group, class, or clan).
Shelter:	Can locate housing. Can negotiate with landlord. Understands payment of rent or mortgage and taxes. Can maintain his/ her own housing, housekeeping etc. Knows how to arrange for utilities, telephone, etc.	Tends to repeatedly misuse parks and bus stations for sleeping. Does not know how to locate housing or communicate with landlords, etc. and/or cannot request or utilize help in doing these housing tasks. Manages household in a way that is a clear danger to health (fire hazard, filth, etc.)
Medical:	Understands need for medical treatment and will access care voluntarily. Utilizes clinics or hospitals to address medical issues.	Unwilling or unable to seek medical treatment for serious issues. Refuses to go to hospital or clinic or allow treatment in the community. Disregards medical advice for serious medical conditions.

Insufficient Reasons for a Determination of Grave Disability

As a reminder, the behaviors outlined in this section must be shown to be the result of a mental disorder or severe substance use disorder and not merely the result of a lifestyle or attitude choice. In addition, the probable cause for grave disability may never be based solely on refusal to accept behavioral health treatment or other resources (including shelter). The LPS Act conspicuously does not state that the individual is Gravely Disabled solely because they refuse treatment for a behavioral health disorder. In short, the structure of the LPS Act preserves the right of non-dangerous individuals to refuse treatment as long as they can provide for their basic needs, even if they have been diagnosed as mentally ill. Conservatorship of Walker, 196 Cal.App.3d 1082 (1987).

A person is not Gravely Disabled for the sole reason of an intellectual disability according to WIC 5008(h)(3).

When determining who is Gravely Disabled for the purposes of a 14-day certification or a determination of conservatorship, the following definitions shall apply to WIC Sections 5250 and 5350, as amended by Statutes of 1989, Chapter 999:

> An individual is not Gravely Disabled if that individual can accept support with the help of a responsible family, friends, or others who are both willing and able to help provide for the individual's basic personal needs. Family, friends, or others shall not be considered willing and able to provide help unless they specifically indicate their willingness and ability to help provide the person's basic personal needs or food, clothing, or shelter.

Additional Considerations

It must also be established that the individual is either unwilling or unable to voluntarily accept needed treatment.

It should also be noted that the mere presence or possession of food, clothing, shelter, personal safety, or available medical care does not, in itself, invalidate the condition of "Grave Disability." The deciding factor is often the inability to utilize these resources. For example, an individual whom repeatedly eating garbage because the individual feels the food in their house has been poisoned is Gravely Disabled despite the presence of food. A WIC 5150 is then appropriate because, as a result of a mental disorder, this individual is unable to utilize normal edible products that they possess.

Evaluator Questions to Assist with Determination

- When has the individual last eaten something? What did the individual eat? If they didn't eat yet today, do they plan to eat today? What did the individual eat yesterday?
- If the individual has not been eating, is it due to dieting or religious ritual?
- Is the individual refusing to eat due to paranoia that someone is trying to poison their food?
- Does the individual eat certain foods that would be dangerous to their health?
- Does the individual refuse to wear clothes? Did the individual, due to a mental disorder, remove clothing in a public setting?
- Is the individual dressed in a manner, which endangers their health or safety?
- Is the individual refusing to use shelter available to them, as a result of a mental or substance use disorder, and instead living in dangerous or unfit conditions?
- Is the individual experiencing medical problems as a result of neglecting basic needs of food, shelter, and/or clothing that put them at significant risk of self harm or serious bodily injury?
- Is the individual unable to meet other important needs – find food, shelter, clothing – due to ongoing, serious substance use issues that are regularly rendering them unable to perform basic functions and protect themselves in the community?

Your assessment should substantiate that specific factors exist which the individual displays to indicate serious faults in comprehension or judgment. These serious faults make the individual unable to use the means at their disposal or unable to provide for their basic personal needs must also determine if the person can or cannot accept help or does the individual need someone else to make the decision for him/her to accept help.

You will need to question the individual and check his/her answers. Is there food in the refrigerator and/or cupboards? Is the house a fire hazard? Is his/her residence so dirty as to be a health hazard? Does the individual expose themself to “inadvertent” nudity or exhibitionism? Are there serious medical issues that require treatment? Do you have consent to speak with a relative or friend to obtain more information?

WIC 5585 Evaluation for Minors

Determining Danger to Self and Danger to Others

Both Danger to Self and Danger to Others are essentially the same as for adults in that the following four criteria must be met and must be due to a mental disorder:

MAUI (Means, Ability, Unwilling/Unable, Intent)

- **Means:** Do they have the means to follow through with threats or behavior?
- **Ability:** Do they have the ability (mentally and/or physically) to follow through with risk behavior?
- **Unwilling/Unable:** Are they unwilling or unable to follow through with voluntary treatment?
- **Intent:** Do they intend to harm themselves or others OR do they intend to start/continue risky behavior?

When considering these criteria in minors it is also important to consider the minor's current developmental stage. For example, what a child has access to or should have access to will vary with age (access to firearms, medications, adult supervision, etc.), and these factors must be considered, especially related to the "means" criteria. Lastly, can the parents/caregivers adequately keep the child from engaging in harm? Can they keep the child from harming other children?

Grave Disability

Welfare and Institutions Code Section 5008 (1) states:

> "A Gravely Disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others."

The definition differs significantly from the adult definition of "Grave Disability". A determination of "Grave Disability" must solely be due to a mental disorder and the evaluation is of the minor's inability to properly utilize the elements of life, rather than of the minor's inability to provide them.

Key Factors to Evaluate with Related Examples

Health: may be evaluated by considering the minor's ability to utilize those elements of the environment which lead to the maintenance, recovery, or development of a state of physical well-being, sufficient to allow the minor to grow and function within the normal demands of the setting where the minor lives. These elements will normally be provided by parents, surrogate parents, health practitioners, and other responsible adults. Examples of graved disability related to health:

- Neglects nutrition to the extent it becomes life endangering.
- Consistently remains out of assigned shelter exposing oneself to heat exhaustion.
- Taking bites of clothes in attempt to eat clothing or destroy clothing causing lack of protection from climate conditions.

- Consistently refuses to maintain standards of personal hygiene to the extent that health is endangered (e.g. risk of infection).
- Refuses to take medications to address serious medical conditions causing risk of serious injury and/or death.

Safety: may be evaluated by considering the minor's ability to assess and cope with the environment, to the degree expected of that age, to the extent that the individual is able to exclude significant threat to self. This threat may be from routine stresses and/or dangers from the environment, or from self-initiated action. Examples of grave disability related to safety:

- Repeatedly places food in body orifices, other than the mouth, e.g. beans in ears, nose, etc.
- Eats non-food materials, e.g. razor blades, feces, trash, etc.
- Repeatedly seeks shelter in dangerous environments, e.g. condemned buildings, areas subject to flooding, fires, or infections, etc.
- Is dangerously destructive to assigned living quarters, e.g. fire setting, window breaking, etc.
- Uses shelter to injure self, e.g. head banging, wall hitting, etc.
- Lights clothing on fire.
- Injures self or others with clothing.
- Frequently uses dangerous items inappropriately.
- Exposes self to dangerous activities due to inability to differentiate reality from fantasy, e.g. attempting to tackle cars on the freeway, attempting to fly without benefit of airplane, etc.
- Displays impaired judgment in terms of seeking inappropriate social situations, thereby repeatedly and unnecessarily exposing self to social situations likely to result in personal danger.

Development: may be evaluated by analysis of whether or not the minor is able to function and thrive as would usually be expected of a child of that age. Deficiencies in comprehension, judgment, control, and/or learning should be considered. When development is used as the basis for establishing "Grave Disability", it is particularly important to determine a pattern of developmental deficiency, based on frequency, severity, and/or number of areas of deficiency. Welfare and Institutions Code Section 5585.25 further states:

> "Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder."

Examples of graved disability related to development:

- Social skills are vastly impaired (e.g. runs around pushing other kids for no reason) which puts minor at serious risk of injury and/or fights.

- Smears or throws food, or otherwise handles food in an age-inappropriate manner.
- Begs, steals, or gives away food outside the range of age normal behavior.
- Is consistently unmanageable in assigned living quarters outside the range of age normal behavior.
- Frequently seeks shelter in socially destructive environments, e.g. places of criminal activity, substantial substance abuse, etc.
- Repeatedly refuses to use any assigned and appropriate shelter and instead prefers less desirable shelter (e.g. wants to sleep in the backyard versus bedroom).
- Destroys own or other's clothing inappropriately.
- Persistently defecates in clothing significantly beyond expected age.
- Engages in public nudity beyond age expectancy.
- Habitually gives away or loses clothing beyond age expectancy.
- Is so withdrawn that the individual cannot obtain the environmental experiences or stimulation necessary for normal development.

THE WIC 5150/5585 APPLICATION

Once it is determined that the criteria are met, the ***Application for up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment*** needs to be thoroughly and accurately completed. This application is a legal document. A copy of this document must be provided to the receiving facility and should be added to individuals' chart.

Liability for False Statement

Do not use unsubstantiated information with the intention of making sure the individual is hospitalized. Any individual who intentionally gives a false statement for purposes of detaining an individual shall be liable in a civil action.

Overview of Application Content

In general, this application must adequately address the following:

- Circumstances by which the individual came to the attention of the writer.
- Sufficiently detailed information or specific facts that support *probable cause* or the belief that the individual is, a Danger to Others, a Danger to Self, or Gravely Disabled.
- Consideration of the historical course of the individual's behavioral health disorder.
- That notice of advisement was/was not complete and to include a *good cause* or reason why it was not possible to provide an advisement.
- Include the time and date of initiating the hold and facility the individual is being transported to.

Tips for Writing the Narrative Sections of the Application

The key is showing how the symptoms of the disorder are causing the behaviors leading to the impairment of the person in question:

- Describe specific behavioral health symptoms leading to impairments.
- Document specific facts and observable behaviors related to mental health and substance use disorders that meet the legal criteria for DTS, DTO, and/or GD.
- Use observable behaviors, including impairments and historical information to establish legal criteria.

Symptoms→Behaviors → Impairments

Examples are provided in the relevant sections below.

Review of the 5150/5585 Form

State of California
Health and Human Services Agency

Department of Health Care Services

APPLICATION FOR UP TO 72-HOUR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT

Confidential Client/Patient Information

Welfare and Institutions Code (W&I Code), section 5150 (g)(1), requires that each person, at the time they are first taken into custody under this section, shall be provided, by the person who takes them 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.

DETAINMENT ADVISEMENT 1

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 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 their 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.

2 ☐ **Complete Advisement** ☐ **Incomplete Advisement**

Date of Advisement/Attempt: 3

Good Cause for Incomplete Advisement: 4

5 Advisement Completed/Attempted By: | Position: 6 | Language or Modality Used: 7

To (*name of 5150 designated facility*): 8

Application is hereby made for the assessment and evaluation of 9, date of birth of 10, and residing at 11, 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.

Detainment Start Date: 12 **Detainment Start Time:** 13

(The 72-hour period begins at the time when the person is first detained.)

If authorization for voluntary treatment is not available for a minor/conservatee, indicate to the best of your knowledge who has legal authority to make medical decisions on behalf of the minor/conservatee: (name and contact information, if available)

(**Check one**): ☐ **Parent(s)** ☐ **Legal Guardian(s)** ☐ **Conservator** ☐ **Other:** 14

Indicate to the best of your knowledge whether the minor is under the jurisdiction of the juvenile court:

(**Check one**): ☐ **W&I Code 300 (dependent)** ☐ **W&I Code 601, 602 (ward)**

The detained person's condition was called to my attention under the following circumstances: 15

Specific facts that I have considered that lead me to believe that this person is, as a result of a mental health disorder, a danger to others, a danger to self or gravely disabled: 16

☐ I have considered the historical course of the person's mental disorder as follows: 17

☐ No reasonable bearing on determination

☐ No information available because: 18

DHCS 1801 (Revised 09/2023) **Please Note: A copy of this application shall be treated as the original.** Page 1 of 2

State of California
Health and Human Services Agency

Department of Health Care Services

APPLICATION FOR UP TO 72-HOUR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT (CONTINUED)

OPTIONAL INFORMATION

History Provided by (Name)	Address	Phone Number	Relation
19			

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

☐ **Danger to Self (DTS)** ☐ **Danger to others (DTO)**

☐ **Gravely disabled (as defined in W&I Code section 5008 or 5585.25)**

NOTIFICATIONS TO BE PROVIDED PURSUANT TO SECTION 5152.1 AND/OR 8102 OF THE WELFARE AND INSTITUTIONS CODE

Notify behavioral health director/designee: _____ _____
(Name) *(Phone)*

21 and peace officer/designee: _____ _____ of
(Name) *(Phone)*

person's release or end of detention if either of the boxes below are checked.

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

22
- ☐ 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.

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.

23 Name:	Title/Badge Number: 24	Date: 25	Phone: 27
Signature: X		Time: 26	

Name of Law Enforcement Agency or Evaluation Facility/Person: 28	Address: 29

REFERENCES

Welfare and Institutions Code

Sections: 300, 601, 602, 5008, 5150, 5150.05, 5152.1, 5328, 5585.25, 5585.50, 8102

Name of Individual Detained: 30 _____ **DOB:** 31 _____

NOTE: This form has not yet been updated for Senate Bill 43 changes, but those changes are effective as of January 1, 2024.

Numbers 1-7: ***Detainment Advisement***

- The purpose of the detainment advisement is to inform the individual with mental health disorder that they have rights, are not under arrest and may take approved possessions with them to the hospital and you may make a phone call or leave a note to tell your friends or family where you have been taken.
- Print your name on this line (**1**).
- The Advisement (located in the upper right-hand corner of the form) should be read to individuals. “Advisement complete” or “Advisement incomplete” should be checked (**2**). Print the date the advisement or attempt was completed **(3)**.
- If an individual is unable to comprehend the verbal advisement, then do not read the Advisement, circle “Advisement incomplete” and document the reason in number (**4**).
- If the Advisement is successfully read to the individual, print your name in the section labeled “Advisement Completed By,” (**5**) print your position: psychologist, social worker, psychiatrist, MFT, psychiatric technician, paramedic (**6**), language or modality used (**7**).

Numbers 8-13: ***Application is Made To…***

- The name of the hospital or emergency room where the individual will be transported is documented on this line (**8**). Be as specific as possible in order to inform the ambulance driver or other applicable parties of the exact location of the receiving facility.
- When indicating the name of the individual in the “Admission of” section (9), use the individual’s complete name. Complete names are helpful in order to increase the likelihood the receiving facility can correctly identify the individual. Include the individuals date of birth (**10**).
- Completing the “Residing at” section (**11**) is critical. The address should be complete with zip code and phone number, if possible. Again, the receiving facility may have only the WIC 5150 form as identifying information, so the more complete the data, the better. If the individual is unhoused, enter unhoused and indicate any areas they frequent if known.
- The section below “Residing at” (**11**) is critical for the completion of the WIC 5150/5585. You should put all the contact information available to you in this section. Neighbor’s names and phone numbers, parents, friends, case managers, conservator, landlord, treating clinician and so on. Hospital discharge planning often depends on the accuracy of this information.
- Enter the date **(12)** and time **(13)** of hold. The 72-hour period begins when the individual is first detained.

Number 15: ***Individual’s condition was called to my attention…***

- This section (**15**) identifies how the individual came to your attention.
- This information should be as complete as possible; it should include who initially contacted you, a short description of why the caller wanted assistance and what the individual was doing to require an emergency assessment (initial complaint).

- All descriptions are to be behavioral and not diagnostic. This means using clear, plain language descriptions of the behaviors the individual is exhibiting (that are symptoms of a mental or substance use disorder) instead of using clinical terms or psychiatric jargon.

These descriptions should focus on what the individual SAYS and DOES. Examples:

Avoid the Clinical:	**Use Factual Descriptions:**
Individual was anxious and paranoid.	Individual was pacing back and forth and worrying that they were being followed.
Individual was having auditory hallucinations	Individual shared that they are hearing the voice of an angel telling them how to hurt themself.
Individual was hallucinating	Individual states they are seeing their dead grandmother in the bedroom.

Some additional examples of behavioral descriptions are:

These descriptions can also include descriptions of medical issues, which also should be addressed factually:

- "Met with individual and observed them to have a serious wound on their leg that wasn't being treated."

Some additional examples of clinical terminology to **AVOID**:

- "Individual is well known bi-polar disorder."
- "Individual suffering from major depression."
- "Individual having ideas of reference."
- "Individual in manic state."
- "Consumer psychotic."

Number 16: *Specific facts that I have considered…*

- This section (**16**) is the "heart" of the WIC 5150/5585. In this section, you will write descriptions of the behaviors (**not** psychiatric diagnosis) that lead you to believe this individual can be held based on the three criteria (Danger to Self, Danger to Others or Gravely Disabled). As noted earlier, these behavioral descriptions should focus on what the individual SAYS and DOES. Examples are:

Avoid the Clinical:	**Use Plain Factual Descriptions:**
"Individual has suicidal ideation and intent after failed romance."	"The individual says they are going to kill themself by overdose because their partner left them."
"Individual experiencing thought insertion."	"Individual tells me that the TV is speaking to them about things."
"Individual has command hallucinations."	"The individual reports that their voices are telling them to hang themself."
"Individual paranoid schizophrenic with fixed delusional disorder."	"Individual says that they are sure someone is watching them from the vents in their apartment."

- Write enough to justify the probable cause for your decision to place the hold and complete the application.
- Quotes from individuals are desirable.
- Behavioral descriptions from reliable sources (i.e., collateral information) are often very helpful. Be sure to identify the source. It is not necessary to document name of someone who wishes to remain anonymous.
- Do not write confidential and/or sensitive medical information in the narrative, such as "Individual has AIDS." The following is better: "individual has untreated communicable disease."

Numbers 17-19: *I have considered the historical course…*

- Historical Course of Individual's mental health or substance use disorder. Include information that contributes to the probable cause used to justify placing the hold **(17)**.
- Check the box which best describes your determination and provide a response where indicated **(18)**.
- If the information is provided by an individual other than you or the individual being evaluated, it is optional whether you include their name, address, phone number, and relation **(19)**.

Number 20: *Probable cause to believe the individual is DTS/DTO/GD*

- Check the box that correctly defines the criteria for the application (**20**). OK to check more than one box.

Numbers 21-22: *Peace officer*

- The facility must notify a requesting peace officer or designee when an individual brought in for 72-hour detention is released any time before or at the expiration of an involuntary detention only if **all** of the following conditions are met: (WIC 5152.1, 5250.1) (**21**) & (**22**):
    - The peace officer has initiated the 72-hour application by completing the application;
    - The peace officer requests such notification at the time the application is made (checks the appropriate box);
    - The peace officer certifies in writing at the time the 72-hour application is made that the individual has been referred to the facility under circumstances which would support the filing of a criminal complaint; and
    - The notice given to the peace officer is limited to the individual's name, address, date of admission for 72-hour evaluation and date of release.

Numbers 23-31: *Finalizing the form*

- Print your name (**23**).
- Include your degree (LCSW, MD, Ph.D., LPT, MFT) and badge/ID # if applicable (**24**).
- Date (**25**) and time (**26**) the application as it is a legal document (**very important**).

- Enter phone number (**27**).
- Print name and agency (**28**).
- Write the address of your agency (**29**).
- Write individual's name **(30).**
- Write individual's date of birth **(31).**

Detainment Advisement

When a hold occurs, the detained individual shall be provided the *detainment advisement* information orally and in writing if the person cannot understand the oral advisement. This should be completed unless there are extenuating circumstances (e.g., the person is violent and requiring restraint or emergent care). This information is located on the application form (upper right-hand corner) and should be read to the person. The advisement includes:

- Your name, role, and agency;
- Why the individual is being detained;
- Assurances that this is not a criminal arrest;
- Being taken for an examination by mental health professionals;
- Name of receiving facility;
- Assurances that the receiving facility will inform of rights; and
- If the evaluation is at the individual's residence, you must also tell the person that they can bring necessary personal items, that they can leave word for friends and/or family, and that they can request assistance in turning off any appliance or water.

Responsibility for Safeguarding Property

It is the responsibility of the individual taking someone into custody to take reasonable precautions to preserve and safeguard the personal property in the possession of that person or on the premises occupied by that person (WIC 5150(f)). If a responsible relative, guardian, or conservator is willing to secure the property, the report should give the name of this person(s) holding it secure. Residential providers should have a method to safeguard the possessions of individuals placed on detention.

Submission and Record-Keeping

The authorized individual must complete and provide a written application to the designated facility stating the circumstances under which the individual's condition was called to the attention of the authorized person, the facts or statements relied upon to have probable cause to believe the person is a Danger to Self, or is a Danger to Others, or is Gravely Disabled.

For each individual evaluated, the designated facility shall keep a record of the advisement which includes all of the following: the name of the individual detained for evaluation, the name and position of the peace officer or mental health professional taking the individual into custody, the date the advisement was completed, whether the advisement was completed, the language or modality used to give the advisement, and, if the advisement was not completed, a statement of good cause (WIC 5150(g)).

Detainment Advisement Form in Several Languages

Note: the forms below have not yet been updated for Senate Bill 43's expansion of the definition of Grave Disability, but that expansion became effective on January 1, 2024.

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

Name of Facility:

Patient's Name:	**Admission Date:**

Section 5150(i) 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 into this psychiatric facility because it is our professional opinion, that as a result of a mental health disorder, you are likely to: (check applicable)

☐ Harm yourself ☐ Harm someone else ☐ Be unable to take care of your own food clothing or shelter

(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):

We believe this is true because:

_____

_____

You will be held for a period of up to 72 hours. This (☐ ***does***) / (☐ ***does not***) include weekends or holidays. Your 72-hour period begins at: _____ (Time) on: _____ (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).

Advisement Completed or Attempted by:	Position:	Language or Modality Used:
Good Cause for Incomplete Advisement:		Date of Advisement:

DHCS 1802 (Revised 12/2019) cc: Original to the Patient/Copy to the Patient's Record

DETAINMENT ADVISEMENT

My name is _____. I am a _____with _____. You are not under criminal arrest, but I am taking you for examination by mental health professionals at _____. You will be told your rights by the mental health staff.

If taken into custody at your residence, 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.

AVISO DE DETENCIÓN

Mi nombre es _____. Yo soy un _____ con _____. Usted no está bajo arresto criminal, pero le voy a llevar para que lo examinen unos profesionales de la salud mental en _____.

Se le informará de sus derechos por parte del personal de salud mental.

Si se le pone bajo custodia en su residencia, se le permite llevar algunos artículos personales con usted, los que yo voy a tener que aprobar. Por favor avíseme si usted necesita ayuda para apagar algún aparato o el agua. Usted puede hacer una llamada telefónica y dejar una nota para decirles a sus amigos o familia adónde le han llevado.

羈押通知

我的名字是 _____。我是一位有_____的 _____。您不是因犯罪被拘捕，但我現在要帶您到 _____.

進行專業的心理健康檢查。心裡健康工作人員將會告知您所擁有的權利。

如果您在住所被拘留，您可以隨身帶一些個人物品，但必須經我批准。請告知我若您需幫助關閉任何電源或水源開關。您可以打電話及留張便條告訴您的親友您被帶去的地方。

SỰ BẮT GIỮ SAU KHI ĐÃ NGHỊ ÁN

Tên tôi là _____. Tôi là _____với _____. Bạn không bị bắt giữ về hình sự, nhưng tôi phải đưa bạn đi khám bởi các chuyên gia y tế tâm thần tại _____.
Nhân viên y tế tâm thần sẽ cho bạn biết về những quyền của bạn.
Nếu bị bắt giữ tại nơi cư trú, bạn có thể mang theo một vài vật dụng cá nhân với sự đồng ý của tôi. Xin vui lòng cho tôi biết nếu bạn cần được giúp để tắt bất cứ thiết bị nào hoặc để khóa hệ thống nước trong nhà. Bạn có thể gọi điện thoại và để lại thư nhắn tin cho bạn bè hoặc gia đình về nơi bạn được đưa đến.

ЗАЧИТЫВАНИЕ ПРАВ ПРИ ЗАДЕРЖАНИИ

Меня зовут _____. Я _____ из _____ _____. Вы не арестованы, но я должен задержать вас для осмотра специалистами в области психиатрии в _____.
Ваши права вам разъяснят сотрудники психиатрического отделения.
Если вы подлежите задержанию у себя дома, вы можете взять с собой личные вещи, которые я должен буду одобрить. Пожалуйста, сообщите мне, если вам нужна помощь в отключении воды или приборов. Вы можете сделать телефонный звонок и оставить записку, чтобы сообщить вашим друзьям и близким, куда вас забрали.

TAGUBILIN NG PAGPIPIGIL
(DETAINMENT ADVISEMENT)

Ang pangalan ko ay _____. Ako ay mula sa_____ _____. Hindi kayo sumasailalim ng pag-arestong kriminal, ngunit dadalhin ko kayo para suriin ng mga propesyonal ng kalusugang pangkaisipan sa _____. Sasabihan kayo ng inyong mga karapatan ng kawani ng kalusugang pangkaisipan.
Kung kukunin kayo sa pag-iingat sa inyong tirahan, maaari kayong magdala ng ilang personal na mga gamit kasama ninyo, na dapat kong aprubahan. Mangyari lamang na ipaalam sa akin kung kailangan ninyo ng tulong sa pagsasara ng anumang kagamitan o tubig. Maaari kayong tumawag sa telepono at mag-iwan ng mensahe para sabihin sa inyong mga kaibigan o pamilya kung saan kayo dadalhin.

AFTER THE HOLD IS PLACED

Transport To Designated Facility

"Designated facility" or "facility designated by the county for evaluation and treatment" means a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined in Health & Safety Code commencing with Section 1250, by the State Department of Public Health, and may include, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit. If it is determined that the individual can be properly served without being detained, the individual must be provided evaluation, crisis intervention, or other individual or outpatient services on a voluntary basis. If it is determined that the individual cannot be properly served on a voluntary basis, the individual must be taken to a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.

Admission Advisement

Upon admission to a facility, the detained individual shall be given the following information orally and in writing, and in a language or modality accessible to the person by the admission staff of the facility. The written information shall be available to the person in English and in the individual's primary language. Accommodations for other disabilities that may affect communication shall also be provided.

My name is _____. My position here is_____. You are being placed into this psychiatric facility because it is our professional opinion that, as a result of a mental health disorder, you are likely to:

A. harm yourself
B. harm someone else
C. be unable to take care of your own food, clothing and housing needs

We believe this is true because (list of the facts upon which the allegation of dangerous or gravely disabled due to mental health disorder is based, including pertinent facts arising from the admission interview).

You will be held for a period of up to 72 hours. This does/does not include weekends or holidays. Your 72-hour period begins at (time) on (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 Individuals' Rights Advocate at 415-552-8100.

If the notice is given in a county where weekends and holidays are excluded from the 72-hour period, the individual shall be informed of this fact.

For each individual admitted for evaluation and treatment, the designated facility shall document in the medical record the name of the individual performing the advisement, date of the advisement, whether the advisement was completed, the language or modality used to communicate the advisement, and a statement of good cause if the advisement is not completed.

Prior to admitting an individual to a designated facility, the professional person in charge of the facility or designee shall assess the individual to determine the appropriateness of the involuntary detention (WIC 5150 and 5585.52).

Each individual admitted to a designated facility for up to 72 hours for evaluation and treatment shall receive an evaluation as soon as possible after being admitted and shall receive whatever treatment and care the individuals' condition requires for the full period of the hold (WIC 5152(a)).

Longer-Term Holds

This chart provides a snapshot of the WIC codes related to longer-term involuntary holds. The far right columns indicate where determinations of Danger to Self, Danger to Others, and or Grave Disability align with the different WIC codes.

Welfare & Institutions Code (WIC)	The details of the WIC codes related to longer-term involuntary holds	RELEVANT DETERMINATIONS:		
		Danger to Self	Danger to Others	Grave Disability
5150	72 Hour Hold - Adults	**X**	**X**	**X**
5230	72 Hour Hold			
5152	Evaluation ASAP	**X**	**X**	**X**
5250	14 Day Hold	**X**	**X**	**X**
5251/5253 5254, 5254.1	Certification signed by two people, given to client, and client informed that they can request a certification review hearing or judicial review by writ of habeas corpus to request release	**X**	**X**	**X**
5256	Certification Review hearing must be held within 4 days or can be postponed for 48 hours or next date if county has 100,000 or less	**X**	**X**	**X**
5276	Judicial Review by Writ of Habeas Corpus	**X**	**X**	**X**
5260	14 day hold (No certification review needed, but person can request Writ of Habeas Corpus)	**X**		
5300	180 day hold (DA must file petition and a court hearing must be held within 4 business days or 10 days if a jury trial is requested)		**X**	
5270.15	30 day hold (person can request certification or writ of habeas corpus hearing)			**X**
5350	Conservatorship			**X**
5352.6	Treatment plan developed within 10 days of conservatorship			**X**
5585.5	72 Hour Hold - Minors			
5585.25	Grave Disability - Definition for minors			
5585.52/5585.53	Clinical evaluation, treatment plan - For Minors			

Additional Background Information on Longer-Term Holds

Involuntary Detention Beyond 72 Hours

Legal Standard for Involuntary Detention (Intensive Treatment)
If the designated facility determines that the individual is in need of additional treatment beyond the 72-hours, it may certify the individual up to an additional 14 days of treatment, but only if the person has been offered voluntary treatment and has refused it (WIC 5250(c)). The requirement that the individual be given the option of voluntary treatment continues through all later stages of the commitment process (WIC 5260).

Timing of Certifications

The individual may be certified on or before the expiration of the 72-hour hold (WIC 5250). The 72-hour hold is computed in terms of hours rather than days and starts as soon as the WIC 5150 hold is initiated. The individual may also be certified during an intervening period of voluntariness that occurs after the 72-hour hold.

Certification Form

For an individual to be certified, the notice of certification must be signed by two people. The first individual must be the professional person, or designee, in charge of the facility providing evaluation services. The designee must be a physician or licensed psychologist who has a doctoral degree in psychology and at least five years postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The second person must be a psychiatrist or psychologist who participated in the individual's evaluation. If the first person who signed also participated in the evaluation, then the second person may be another physician or psychologist. If the professional person in charge, or his or her designee is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a licensed clinical social worker, licensed marriage and family counselor, licensed professional clinical counselor, or a registered nurse who participated in the evaluation can sign the notice of certification (WIC 5251).

The hearing officer at the certification review hearing cannot be an employee of the county mental health program or a facility designated for 72-hour holds (WIC 5256.1). The individual has the right to be present at the hearing, to be represented by counsel, and to present evidence. In addition, the individual has the right to cross-examine witnesses, to make reasonable requests that the staff members be present as witnesses, to have the hearing officer informed of the fact that the individual is receiving medication and the possible effect of the medication on one's behavior at the hearing, and to have family members or friends notified (or, if the individual prefers, not notified) of the hearing (WIC 5256.4).

Habeas Corpus/Judicial Review

An individual has legal recourse during the detention to contest confinement by means of a "habeas corpus" or writ hearing. There is a constitutional right to habeas corpus during each period of detention (U.S. Constitution, Article 1, Section 9; California Constitution, Article 6, Section 10; Penal Code 1473), as well as statutory right when detained under WIC 5250, 5260 or 5270.10 (WIC 5275).

At any time during the first 14-day certification period, the individual may request release by presenting their request to any member of the staff or to the individual who delivered the notice of certification (WIC 5275). The staff member must then forward the request for release to the

director of the facility or his/her designee, who in turn must then “as soon as possible” inform the superior court for the county in which the facility is located of the request for release. Intentional failure to do so is a misdemeanor (WIC 5275). If an individual asks to file a petition for a writ of habeas corpus, hospital staff must assist the individual and may not deny the right to file it on the grounds that a certification review hearing is pending.

A state superior court judge must hold a hearing within two judicial days of filing of the habeas corpus petition. The judge must decide whether there is probable cause to believe that the individual is Gravely Disabled, or a Danger to Self or Others. The individual has the right to be represented by an attorney. If the individual cannot afford an attorney, the public defender will provide representation without cost. While judicial review is pending, the individual may not be transferred out of the county (WIC 5276).

Additional Intensive Treatment of Individuals Who Are Gravely Disabled
A limited number of counties, by resolution of their board of supervisors, have adopted an additional commitment status for use following the 14-day certification, including San Francisco County. Upon completion of the 14-day period of intensive treatment, an individual may be certified for an additional period of not more than 30 days of intensive treatment if the individual remains Gravely Disabled and remains unwilling or unable to accept treatment voluntarily (WIC 5270.15). The second certification is initiated in a manner consistent with WIC 5250 procedures whereby the individual is entitled to a second certification review hearing and/or judicial review of the additional certification.

The individual’s condition shall be analyzed at intervals, not to exceed ten days to determine if the individual continues to meet criteria for certification. If the individual does not meet the criteria, they must be released.

Additional Intensive Treatment of Individuals Determined to Be Suicidal
If the individual continues to be a Danger to Self, they can be held for a second 14-day period, but no longer. Thus, an individual judged a Danger to Self can be held for a 72-hour hold, followed by 14 days of certification and 14 more days of re-certification – 31 days in all. After that, the individual must be released unless they are reclassified as a Danger to Others or is Gravely Disabled (WIC 5264).

Re-certification requires a second notice of certification (WIC 5261). Danger to self is carefully defined for purposes of re-certification: the individual must have “threatened or attempted to take his own life” either during the present detention or as part of the events bringing about the detention. The individual must continue to “present an imminent threat of taking his/her own life.” Again, the individual must have been advised of, but not accepted, voluntary treatment (WIC 5260).

Post-Certification of Individual Determined to Be Imminently Dangerous
At the expiration of the 14-day period of intensive treatment, an individual may be confined for further treatment for an additional period, not to exceed 180 days if one of the following exists (WIC 5300):

- The individual has attempted, inflicted, or made a serious threat of substantial physical harm of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated or heightened danger of inflicting substantial physical harm upon others.

- The individual had attempted, or inflicted physical harm upon another, that act having resulted in them being taken into custody and who presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.
- The individual had made a serious threat of substantial physical harm towards another within seven days of being taken into custody, that threat having at least in part resulted in them being taken into custody, and the individual presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.
- Thus, an individual judged a Danger to Others can be held for the initial 72-hour hold, followed by 14 days of certification, followed by 180-day renewable periods of post-certification.
- The decision to commit an individual for post-certification treatment must be made by a court with the assistance of a court-appointed psychiatrist or psychologist with forensic skills (WIC 5303.1). The individual has a right to be represented by an attorney and to demand a trial by jury. If the individual cannot afford an attorney, an attorney will be appointed (WIC 5302). The court hearing must take place within four judicial days after the petition is filed or within ten judicial days if a jury trial is requested, unless the individual's attorney requests a continuance. In order to certify the individual, the jury verdict must be unanimous. If no decision is made within 30 days of the filing of the petition, not including extensions of time requested by the individual's attorney, the individual must be released.

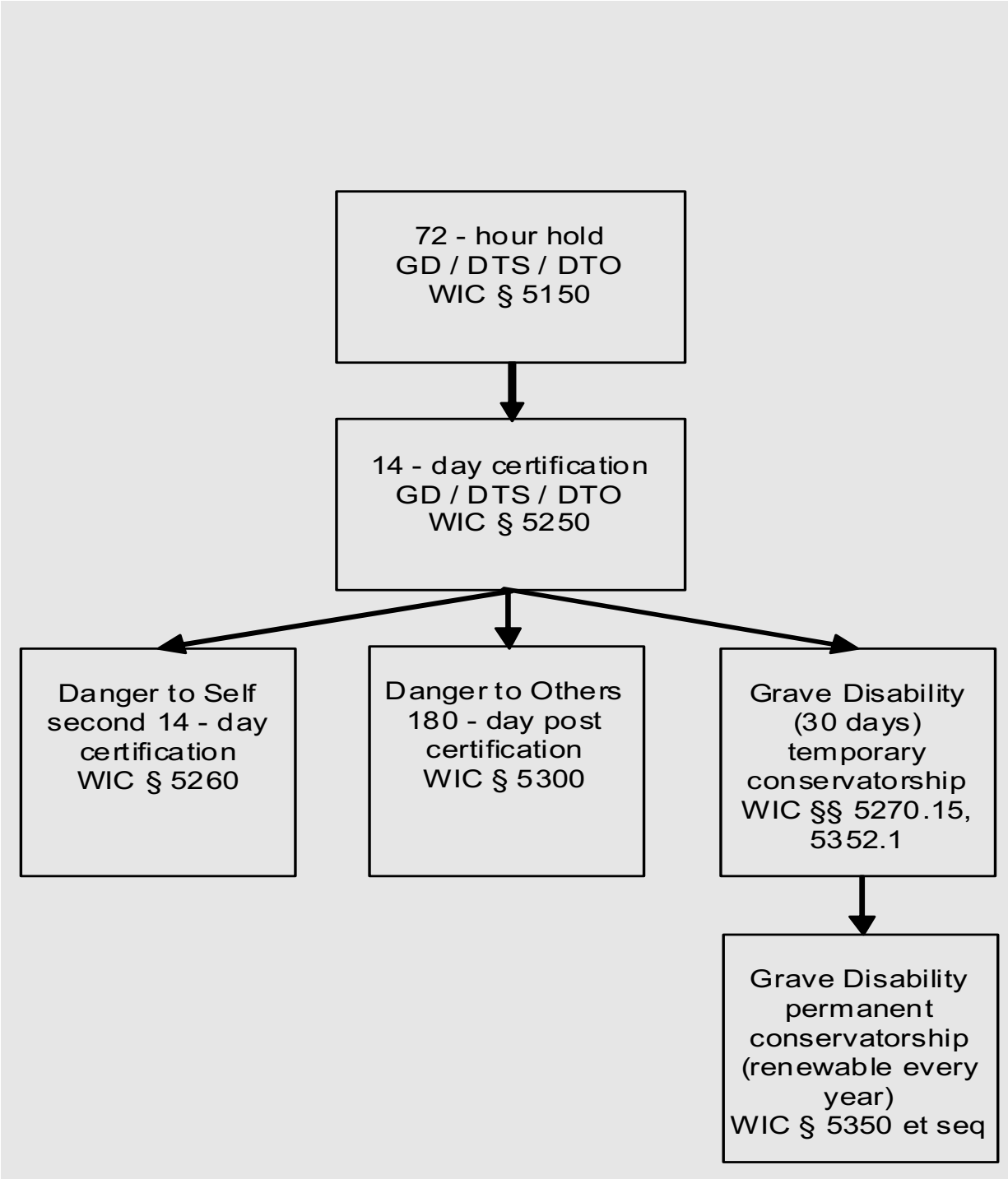
Conservatorship
An LPS conservatorship is a legal relationship in which an individual is appointed by the court to serve as a conservator and who acts in the interests of a "Gravely Disabled" individual to ensure that the basic needs for food, clothing, shelter, personal safety, and necessary medical care are met, and if authorized, that the individual receive adequate medical and psychiatric care and treatment.

If the individual is "Gravely Disabled," the individual can be placed on a temporary conservatorship for 30 days (WIC 5352.1), followed by a permanent conservatorship for renewable one-year periods (WIC 5361).

<u>Legal Standard</u>
- An adult may be referred for conservatorship if, due to a mental or severe substance use disorder, the individual cannot provide for basic needs such as food, clothing or shelter, personal safety, or necessary medical care (WIC 5350).
- A minor may also be referred for conservatorship, if, as a result of mental disorder, the minor 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 (WIC 5350 and 5585.25).

A conservatorship of the estate (probate) may also be appointed by the court. Often the same individual is appointed as conservator to the individual and the estate. The conservator of the estate is empowered by the court to handle the conservatee's property and income, pay bills, etc. If a conservator of the estate is not appointed, then the conservatee retains the full rights regarding property and income management.

OVERVIEW OF THE CIVIL COMMITMENT PROCESS



OVERVIEW OF LPS INDIVIDUALS' RIGHTS

The LPS Act specifically requires that treatment, rehabilitation, and recovery services be provided in the least restrictive manner possible. The LPS Act also specifically mandates that individual with mental health and severe substance use disorders have a right to treatment services which promote the potential of the individual to act independently and to safeguard the personal liberty of the individual (WIC 5325.1(a)). Therefore, LPS permits involuntary hospitalization only of those individuals with behavioral health disorders and severe substance use disorders for whom such confinement is necessary and appropriate.

The more fundamental the right, the more stringent the due process standards for protection of that right under the LPS Act. So strong is the statutory protection of certain rights that a number of rights under the LPS Act cannot be denied under any circumstances. An example of these "undeniable rights" is codified in 5325.1 WIC and includes:

- A right to dignity, privacy, and humane care.
- A 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.
- A right to prompt medical care and treatment.
- A right to participate in appropriate programs of publicly supported education.
- A right to social interaction and participation in community activities.
- A right to physical exercise and recreational opportunities.
- A right to be free from hazardous procedures.

Note that physical restraint used for punishment or for other improper purposes or periods of time beyond which the time it was ordered constitutes abuse and must be reported to protective service agencies (WIC 15610.63(f)(1)(2)(3)). In some circumstances, such abuses can subject professionals to criminal sanctions.

Good Cause for Denial of Rights

Except for the right to see an individuals' rights advocate or to refuse convulsive treatment, insulin coma treatment, or psychosurgery, the rights listed under Welfare and Institutions Code Section 5325 may be denied by the professional individual in charge of the facility, or his or her designee, for good cause (WIC 5325 & 5326).

Good cause exists when the professional individual in charge of the facility has good reason to believe that:

- The exercise of the specific right would be injurious to the individual **OR**
- There is evidence that the specific right, if exercised, would seriously infringe on the rights of others **OR**

- The institution or facility would suffer serious damage if the specific right is not denied **AND**
- There is no less restrictive way of protecting against these occurrences.

The reason used to justify the denial of a right to an individual must be related to the specific right denied. A right shall not be withheld or denied as a punitive measure, nor shall a right be considered a privilege to be earned.

Denial of rights based on the good cause standard is the least stringent criteria for denying a right, and generally apply to rights such as the right to wear one's own clothing, have access to private storage space, and to see visitors each day. That the good cause requirement is not more stringent should not be misinterpreted as diminishing the importance of these individual rights. These rights must be protected in every designated facility in which voluntary and involuntary mental health services are being provided and are subject to documentation and reporting requirements.

Documentation Requirements

Because of the importance of the denial of these individuals' rights, each denial of rights must be documented in the individual's record. Such documentation must include:

- Date and time the right was denied.
- Specific right denied.
- Good cause for denial of right.
- Date of review if denial was extended beyond 30 days.
- Signature of professional person in charge of the facility or designee authorizing denial of right.

Admitting facilities are required to prominently post individuals' rights in the predominant languages of the community and to explain in a language or modality accessible to the individual. Upon admission, each individual is to receive a copy of a state department of health care services prepared individuals' rights handbook.

Certification Review Hearing

As a result of AB 2275 amendments to WIC 5256, a certification review hearing must be held within seven days of the date a person was initially detained if a person has not been certified for intensive treatment (of up to 14 days pursuant to WIC 5250) but remains involuntarily detained under WIC 5150.

Right to Exercise Informed Consent to Medication

An individual with a psychiatric disability must be provided with all essential information required to make an informed decision whether or not to accept a treatment recommended by a physician (WIC 5152). Under LPS, an individual must be given written and oral information about medications they are being prescribed as a result of their mental health disorder and this information must include:

- The probable effects and possible side effects of medications;
- The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended;
- The likelihood of improving or not improving without the medication;
- Reasonable alternative treatments available;
- The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken; and
- The fact that the above information has or has not been given shall be indicated in the individual's record.

Right to Refuse Medication

Antipsychotic medication may be administered if the individual does not refuse the medication following disclosure of the right to refuse medication as well as the information outlined above (5332 WIC). Antipsychotic medication refers to any drug customarily used for the treatment of symptoms of psychosis and other severe mental and emotional disorders. If any individual orally refuses or gives other indication of refusal of treatment with that medication, the medication shall only be administered as follows:

- Upon a determination of that individual's incapacity to refuse the treatment in a hearing held for that purpose;

  OR

- In case of an emergency defined as a situation in which action to impose treatment over the individual's objection is immediately necessary for preservation of life or the prevention of serious bodily harm to the individual or others and it is impracticable to first gain consent (WIC 5008(m)). In the event of an emergency, only medication required to treat the emergency may be administered and the medication shall be provided in the manner least restrictive to maintain the personal liberty of the individual.

Riese Hearing

In 1991, the California legislature enacted Senate Bill 665 (SB 665), mandating informed consent and capacity hearing procedures to implement Riese v St. Mary's Hospital and Medical Center. Riese was the 1987 judicial decision recognizing that individuals detained pursuant to LPS have a right to give or refuse consent to medication prescribed for treatment. At the core of the Riese decision is the recognition that mental health individuals may not be presumed to be incompetent solely because of their involuntary hospitalization (5326.5 & 5331 WIC).

The reason why the prescriber/petitioner bears the burden of proving the individual's incapacity to refuse medications by clear and convincing evidence in a statutorily defined hearing for that purpose is the intrusiveness and fundamental nature of the right at stake. The court observed that treatment with antipsychotic drugs not only affects the individual's bodily integrity, but also the individual's mind, the "quintessential zone of privacy." To assess capacity, the Riese court stated the decision maker should focus on whether the individual is:

- Aware of their situation (e.g., diagnosis/condition);

- Able to understand the benefits and risks of, and alternatives to, the medication; and
- Able to understand and evaluate the medication information and participate in the treatment decision through a rational thought process.

The court stated that it should be assumed that an individual is using rational thought processes unless a clear connection can be shown between the individual's delusional or hallucinatory perceptions and the individual's decision. In addition, the court held that even where there were irrational fears about the treatment, the presence of some rational reasons for refusal of the treatment was enough to surmise that the individual had capacity to make treatment decisions. The court concluded that the evidence showed a disagreement between the physician and the individual, but such a disagreement did not show that the individual lacked capacity (Conservatorship of Waltz 180 Cal. App. 3d 722,227 Cal. Rptr. 436, 1986).

Use of Seclusion or Restraints

It is widely recognized that the use of seclusion or restraint is always intrusive and potentially dangerous to both individuals and staff. Increasing awareness of the potential for serious psychological and lethal harm to individuals subjected to this intervention has led to the promulgation of standards to ensure proper monitoring and to severely limit its use. To date, prone restraint resulting in positional asphyxia has proven to be the most significant and underreported lethal restraint – related hazard.

The Centers for Medicare and Medicaid Services (CMS), as well as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), promulgated significant changes in their standards governing individuals' rights as they pertain to seclusion and restraint. These include the right to be free from any type that is not medically necessary or is used as a means of coercion, discipline, convenience, or retaliation by staff, and preserving individual safety and dignity when restraint or seclusion is used. The standards require an initial assessment for risk factors such as pre-existing conditions or any physical disabilities and limitations that would place the individual at risk during use of restraint. The standards address the need for clinical justification whereby the use of restraint is not based on an individual's restraint history or solely on a history of dangerous behavior and is limited to emergencies in which there is an imminent risk of an individual physically harming oneself, staff, or others, and less restrictive measures would be ineffective. Non-physical techniques are considered the preferred intervention (e.g., redirecting the individual's focus, employing verbal de-escalation). The standards defined who could authorize the use of restraint or seclusion, and defined time limits regarding both written and oral orders.

The enacted Senate Bill 130 augmented and strengthened former state law as well as JCAHO and CMS protections (commencing with Section 1180 of the Health & Safety Code).

Selected provisions include:

Declares that the use of seclusion or restraint:

- Is not treatment; and
- Does not alleviate human suffering or positively change behavior.

Allows restraint in behavioral emergencies ONLY:

- When an individual presents an immediate danger of serious harm to self or others.

Emphasizes reducing use of seclusion or restraint through:

- Good milieu programs, interesting activities, and attention to every individual's need for sufficient space;
- Changing the culture of facilities through the commitment of manager/staff to reducing seclusion or restraint;
- State utilization of best practices developed in other states; and
- Using the most efficient modern resources to accomplish these goals, including computerized data collection and analysis, public access to this info via Internet, strategies for organizational change, staff training, debriefing models, and recovery-based treatment models.

PROHIBITS: Prone mechanical restraint on an individual at risk for positional asphyxiation as a result of one of the following risk factors that are known to the provider:

- Obesity;
- Pregnancy;
- Agitated delirium or excited delirium syndromes;
- Cocaine, methamphetamine, or alcohol intoxication;
- Exposure to pepper spray;
- Preexisting heart disease, including, but not limited to, an enlarged heart or other cardiovascular disorders; and/or
- Respiratory conditions, including emphysema, bronchitis, or asthma.

EXCEPT when written authorization has been provided by a physician, made to accommodate an individual's stated preference for the prone position or because the physician judges other clinical risks to take precedence. The written authorization may not be a standing order and shall be evaluated on a case-by-case basis by the physician.

REQUIRES FACILITIES to avoid the deliberate use of prone containment techniques whenever possible, utilizing the best practices in early intervention techniques, such as de-escalation, and to utilize quality reviews and debriefings following seclusion or restraint episodes. If prone containment techniques are used in an emergency situation, a staff member shall observe the individual for any signs of physical duress throughout the use of prone containment. Whenever possible, the staff member monitoring the individual should not be involved in restraining the person.

ALSO PROHIBITS placing an individual in a facedown position with the person held or restrained behind the person's back with physical restraint or containment as an extended procedure.

ALSO PROVIDES the right to be free from the use of a drug used in order to control behavior or to restrict the individual's freedom of movement, if that drug is not a standard treatment for the individual's medical or psychiatric condition.

Release From Detention

The individual shall be released prior to 72 hours if it is determined that the individual no longer requires evaluation and treatment (WIC 5152(a)).

At the end of the 72-hour period, the detained individual must be evaluated to determine whether further care and treatment is required. If the individual no longer requires evaluation and treatment, the person shall be released (WIC 5152 & 5172).

If further care and treatment is required, the notice of certification should indicate that the individual was advised of the need for continued treatment and that the individual is unable or unwilling to accept treatment on a voluntary basis or to accept referral to services. As unwillingness to accept treatment on a voluntary basis is a pre-condition to involuntary detention, the failure to adequately address the issue of voluntariness may serve as a basis for release.

If the individual continues to be a Danger to Self, or a Danger to Others, or is Gravely Disabled, the individual may be certified for intensive treatment and detained for up to 14 additional days (WIC 5250).

Involuntary Detention of Minors

The civil commitment of minors is governed by Welfare and Institutions Code commencing with Section 5585. For purposes of the LPS Act, a minor is anyone under the age of 18 who is not married, or a member of the armed forces, or declared emancipated by a court of law. Minors have the same legal rights as adults with respect to involuntary holds and must also meet the same criteria. However, there are some differences which must be observed. Minors may only be taken into custody under WIC 5585 when authorization for voluntary inpatient treatment is not available. This would include situations when the parent, guardian or other individual authorized to provide consent is not available, or refuses to authorize voluntary treatment, or agrees to authorize voluntary treatment but factors suggest that the minor would not obtain the necessary voluntary treatment. The definition of a Gravely Disabled minor has been somewhat modified to state that the minor, as a result of a mental health disorder, must be “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. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder (WIC 5585.25).

As a rule, a minor’s voluntary admission to acute inpatient psychiatric care can only be executed by the individual entitled to the minor’s custody. The right to contest voluntary admission is not available to minors under age 14; however, certain rights may be invoked (e.g., request for independent clinical review, Roger S procedure, advice by counsel) by minors aged 14 to 17 which are subject to specific criteria (private vs. public/county facility, wards, and dependents of the court).

DUTY TO REPORT

Reporting is an ethical part of our responsibility. If you become aware of concerning information during the course of a 5150 evaluation, understand that you may also be required by law to file a mandated report. This section of the manual provides some of the requirements. Other policy references include:

- BHS policies on special situations governing release of information: 3.06-09: *Duty to Warn & Protect;* 3.06-11: *Child Abuse & Neglect Reporting Act* - https://www.sfdph.org/dph/files/CBHSPolProcMnl/3.06-11.pdf*;* 3.06-13: *Elder & Dependent Adult Reporting Requirements* - https://www.sfdph.org/dph/files/CBHSPolProcMnl/3.06-13.pdf.
- Note that staff may have additional reporting requirements as well (e.g., BHS incident reporting, State licensing).

Child Protective Services (CPS)

Applies to all SF mandated reporters as defined by the Child Abuse and Neglect Reporting Act, California Penal Code Section 111.65.7. Any San Francisco mandated reporter who, in their professional capacity, or within the scope of their employment, has knowledge of or observes a child whom the mandated reporter knows, or reasonably suspects has been the victim of child abuse or neglect, must report the known or suspected abuse. This includes situations where the individual may be the suspected or known perpetrator of child abuse or neglect. Mandated reporters do not have to know the victim personally but do have sufficient facts to create an objectively reasonable suspicion of abuse or neglect. Reports must be phoned in as soon as practically possible 415.558.2650 or 800.856.5553 and written reports must be completed within 36 hours of receiving the information concerning the incident. Forms available in multiple languages at https://oag.ca.gov/childabuse/forms.

Adult Protective Services (APS)

Applies to all SF mandated reporters as defined by the California Welfare & Institutions Code. Any mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that causes reasonable suspicion of abuse of an elder or dependent adult, must report the known or suspected abuse. Reports must be called in immediately to 1.833.401.0832 (enter zip code) and written reports must be completed within 24 hours and are available at https://sanfrancisco.leapsportal.net/LeapsIntake/NewPublicIntakeReport.aspx.

Abuse means any of the following:

- Physical abuse, neglect abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering;
- The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering; and
- Financial abuse, as defined in Welfare and Institutions Code section 15610.30.

Tarasoff – Duty to Warn

Mandated reporting process that requires all providers to warn and protect any reasonably identifiable victim(s) of a serious threat of physical violence communicated by an individual. If there exists a responsibility to protect, the duty shall be discharged by making reasonable efforts to communicate the threat to the victim(s) and to a law enforcement agency.

Department of Public Health Behavioral Health Services Policy Links

SFDPH Behavioral Health Services Policies and Procedures: Authority for Involuntary Detention for 72-Hour Evaluation and Treatment -
https://www.sfdph.org/dph/files/CBHSPolProcMnl/3.07-02.pdf

SFDPH Behavioral Health Services Policies and Procedures: Involuntary Psychiatric Detention and Coordination of Care for Minors -
https://www.sfdph.org/dph/files/CBHSPolProcMnl/3.03-1.pdf