



SAN MATEO COUNTY HEALTH
BEHAVIORAL HEALTH & RECOVERY SERVICES

DATE: April 17, 2023

BHRS POLICY: 23-04
SUBJECT: 5150 Certification Review Hearings (AB2275)
NEW POLICY: January 1, 2023
AUTHORITY: Welfare & Institutions Code Sections 5150(k), 5256(b)
ATTACHMENTS: Attachment A - Certification Review Hearing Contact Information
 Attachment B – Certification Review Hearing Patient Rights Advisement
 Attachment C – Certification Review Hearing Record and Decision Form

PURPOSE:

To provide guidance to San Mateo County facilities and professional staff certified to write 72-hour holds, also called a 5150, to initiate a review hearing when persons are detained beyond 72-hours and a 5250/14-day Certification Hearing cannot or has not been requested. This policy addresses instances when a person continues to meet criteria beyond the 72-hours allowed under a 5150 involuntary hold.

POLICY:

The Lanterman-Petris-Short (LPS) Act provides for the prompt evaluation and treatment of persons who are believed to have serious mental disorders or impairment from chronic alcoholism. The 72-hour hold, also called a 5150 (or a 5585 for youth), provides legal authority to detain a person involuntarily for the purpose of assessment, evaluation, and treatment if deemed a danger to others, a danger to self, or gravely disabled.

In the years since the LPS Act was enacted, the availability of beds for persons on 72-hour holds has decreased and non-designated facilities, such as emergency departments, may not be able to transport a person to a designated facility within the 72-hour period of the hold. Unlike designated facilities that can initiate a 14-day hold certification review hearing, undesignated facilities with a hold that exceeds 72-hours find themselves in a grey area of the law, which this policy addresses, by affording the person on the involuntary hold a review hearing that can be requested within 4 days of when the hold was initiated and the hearing must be held within 7 days of when the hold was initiated.

PROTOCOL:

1. Facilities shall offer patients who are on a 5150 hold to consent to treatment as a voluntary patient at least two hours before the end of their 72-hour-hold in a manner consistent with existing consent to treatment procedures (WIC §5001, §5003).
2. Facilities that are not authorized to write 5250s (non-designated facilities) shall notify the San Mateo County Patients' Rights Advocates via email whenever patients who are on a 5150 go beyond the 72-hour-hold (WIC §5150(k)). Contact information can be found in Attachment A.
3. If the patient refuses to be voluntary and they are at the end of their 72-hour-hold, the facility staff will make an advisement to the patient that they have the right to:
 - a. Request a certification review hearing within 4 days of the date the hold was initiated (WIC §5256(b)).
 - b. Request to talk to a Patients' Rights Advocate to assist them with the hearing, prepare for the hearing, answer their questions and address their concerns, and inform them of their rights (WIC §5256(b)). The person may request the assistance of another person but will be advised of their right to request the assistance.
 - c. Request for a judicial review (Writ of Habeas Corpus), which if requested as provided in WIC §5275 and §5276, cancels the 72-hour certification review hearing that would be held within 7 days of when the hold was initiated (WIC §5256(b)). A Writ can only be requested if the person has not been certified for a 14-day hold (WIC §5250).

The Patient Rights Advisement can be found in Attachment B.

4. If the patient requests the 5150 Certification Review Hearing within 4 days of when the 72-hour hold was initiated, the facility staff shall notify the Patients' Right Advocates and the San Mateo County Superior Court Hearing Officers via email to initiate the hearing process.

The facility representative shall include with the notification a copy of the original 72-hour hold form that provides the date and time the original hold was initiated, the hold reasons, and verification the patient was advised of the hold. The facility representative shall also include a statement with evidence as to why the patient continues to meet criteria and should continue to be held beyond the 72-hours. Under no circumstances should the provision of either the copy of the form or the statement delay the request; both or either may be submitted subsequent to the notification, but prior to the scheduled hearing date and time.

The contact information for both the Patients' Rights Advocate and the Hearing Officers can be found in Attachment A. If the facility representative does not have the attachment or it is out of date, the general email contacts are SanMateoPRA@mhaac.org and LPSHearingOfficers@sanmateocourt.org but the email addresses in the attachment are the preferred contacts.

5. The Patients' Rights Advocate will attempt to talk to the patient, via phone call, in preparation before the certification review hearing and the facility shall afford the patient access to a phone if necessary.
6. 5150 Certification Review Hearings may be scheduled on Mondays, Tuesdays, Thursdays and Fridays at around 10: 00 AM. The Hearing Officer or Hearing Officer designee will notify the facility representative of the date and time of the hearing, and the facility representative will notify the patient of the same upon receipt.
7. A patient can withdraw or postpone the hearing prior to the scheduled time or date of the hearing by contacting the Patients' Rights Advocate, and the facility representative shall provide the means for the patient to provide such notification (WIC§5256(a)).
8. The Hearing Officer or Hearing Officer designee shall provide the Zoom link or ID and Passcode to the facility representative and the Patients' Rights Advocate to be used for the 5150 Certification Review Hearing.
9. The facility representative shall provide a private space and a device that can be used to accommodate a Zoom meeting for the 5150 Certification Review Hearing.
10. Upon completion of the hearing, the Hearing Officer or Hearing Officer designee will send the facility representative the Certification Review Hearing Record and Decision Form (Attachment C), which is the Decision. The facility representative shall provide a copy of the Decision to the patient upon receipt and advise the patient of the Hearing Officer's determination in a manner that the patient understands what the Decision means for them.

Approved: Signature on File
 Dr. Jei Africa, PsyD, MSCP, CATC-V, FACHE
 he/his
 Director
 Behavioral Health and Recovery Services

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 Scott Gruendl, MPA, CPCO
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Next Review Date: 05/01/2024