



What happens after a “5150”?

A “5150” is an 72-hour involuntary hold in a psychiatric facility for evaluation of a person *for whom there is probable cause to believe is a danger to self, danger to others or gravely disabled (unable to provide for food, clothing or shelter, as a result of mental disorder. The **Welfare and Institutions Code** contains the sections of law which cover the **involuntary treatment of psychiatric patients.** The code is divided into various articles and sections. These sections, beginning with section 5000, are also known as the Lanterman-Petris-Short Act (LPS). (For a complete review see the **Welfare and Institutions Code.**)*

If a person is detained for 72 hours under the provisions of Article 1 (section 5150) and has received an evaluation, *and the treating doctor feels the patient needs intensive treatment and that the patient is a danger to self, danger to others or gravely disabled*, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder. This 14 day additional intensive treatment is *also known as a 5250, and the law provides that a hearing be held automatically to determine whether there is probable cause to continue to hold the person involuntarily on a 5250.*

Prior to a hearing:

A *notice of certification* is required for all persons certified for intensive treatment *and* must be signed by the professional person or designee in charge of the facility providing evaluation **and** by a physician or psychologist who participated in the evaluation.

A copy of the certification notice shall be personally delivered to the person certified, and the person’s attorney or advocate as designated in Section 5252. The person certified shall also be asked to designate any person who is to be sent a copy of the certification notice. If the person certified is incapable of making this designation at the time of certification, s/he shall be asked to designate a person as soon as s/he is capable. *The person may choose not to have any other person notified.*

As soon as is practicable in San Mateo County, a *Patients’ Rights Advocate* meets with the person certified to discuss commitment process and to assist the person in preparing for the hearing. *This meeting takes place* usually the day prior to the hearing and then again just prior to the hearing.

The advocate *represents the expressed interests of the client and, by law, is prohibited from making clinical judgments or attempting to determine what might be the “best interests” of their client.* (The State Department of Mental Health is required to offer an annual training to county advocates.) By law, the certification review hearing shall be held within four days of the start of intensive treatment. Hearings in San Mateo County are held in various facilities where clients are inpatients: *Hearings are held at the VA and Mill Peninsula on Monday and Thursday mornings. Hearings are held at Sequoia and San Mateo Medical Center on Tuesday and Friday mornings*



Conduct of certification hearing: (Who attends?)

The Hearing Officer (in San Mateo County the Hearing Officers are attorneys who are unanimously approved by a panel composed of the mental health director, county counsel, and the private defender. No known requirements for mental health education/training)

A person designated by the treating facility to support the certification decision. (this is generally the treating psychiatrist or M.H. professional)

A Patients' Rights Advocate.

The certified person has rights, which include manner of conduction of hearing; notification of family members; admission and consideration of evidence.

- (a) At the certification review hearing, the person certified shall have the following rights:
 - 1. Assistance by an attorney or advocate
 - 2. To present evidence on his or her own behalf
 - 3. To question persons presenting evidence in support of the certification decision.
 - 4. To make reasonable requests for the attendance of facility employees who have knowledge of or participated in the certification decision.
 - 5. If the person has received medication within 24 hours or such longer period of time as the person conducting the hearing may designate prior to the beginning of the hearing, the person conducting the hearing shall be informed of that fact and of the probable effect of the medication.
- (b) The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by the participants. The person conducting the hearing shall not be bound by rules of procedure or evidence applicable in judicial proceedings
- (c) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the certification hearing, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.
- (d) All evidence which is relevant to establishing that the person certified is or is not as a result of mental disorder ...a danger to others, or to him or herself, or gravely disabled, shall be admitted to the hearing and considered by the hearing officer.
- (e) Although resistance to involuntary commitment may be a product of a mental disorder, this resistance shall not, in itself, imply the presence of a mental disorder or constitute evidence that a person meets the criteria of being dangerous to self or others or gravely disabled.



Outcome:

If at the conclusion of the certification review hearing the person conducting the hearing finds that there is not probable cause to believe that the person certified is, as a result of a mental disorder, a danger others, to him or herself, or gravely disabled, then the person certified may no longer be involuntarily detained. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

If at the conclusion of the certification review hearing the person conducting the hearing finds that there is probable cause that the person certified is, as a result of a mental disorder, a danger to others, a danger to him or herself, or gravely, then the person may be detained for involuntary care, protection, and treatment related to the mental disorder.

Immunity from civil or criminal liability for release:

(a,b)The professional person in charge of the facility providing intensive treatment, or his or her designee, the medical director of the facility or his or her designee, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before or at the end of 14 days pursuant to this article

(c) The advocate or attorney representing the person, the hearing officer conducting the certification review hearing...shall not be civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

Concerns/Comments:

Information from the AB1424 form (*Historical information from family members*) developed by San Mateo County Mental Health and NAMI *must* be presented at a certification hearing, even if family members are not in attendance at the hearing. It is up to the facility to present the 1424 information and up to the family to be sure that this form is a part of the patient's record.

Special thanks to:

Dan Jordan, Director Patients' Rights Advocates of San Mateo County

Sources:

Lanterman-Petris-Short Act Division 5 of the Welfare and Institutions Code, Chapter 2, Sections 5150-5331

www.leginfo.ca.gov/html/wic_table_of_contents.html