



COUNTY OF MONTEREY HEALTH DEPARTMENT

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Administration
Behavioral Health

Clinic Services
Emergency Medical Services
Environmental Health/Animal Services

Public Health
Public Administrator/Public Guardian

Policy Number	333
Policy Title	Involuntary Treatment for Individuals with Mental Health Disorders
References	California (CA) Welfare and Institutions Code (W & I Code), Division 5 Assembly Bill (AB) 1424, Division 5 of the California Welfare and Institutions Code (CA W & I Code), which contains the Lanterman-Petris-Short (LPS) Act
Form	<ul style="list-style-type: none"> • MCBH Policy 303 - Involuntary Patient Advisement • MCBH Policy 334 – Staff Authorized to Initiate Involuntary Holds • All Monterey County Health and Behavioral Health Confidentiality Policies • Sample 5150 Professional Staff Authorization Card • Inter-Agency Law Enforcement/Mental Health Protocol • MCBH Policy 336 Advisement of Rights to Involuntary Patients (5250)
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Policy

Monterey County Behavioral Health Bureau’s policy and procedures regarding involuntary detention for assessment, evaluation, and treatment of persons with mental health disorders who are a danger to themselves, danger to others, and/or gravely disabled will comply with Division 5 of the California Welfare and Institutions Code (CA W & I Code), which contains the Lanterman-Petris-Short (LPS) Act and the Children’s Civil Commitment and Mental Health Treatment Act of 1988.

On January 1, 2002 California implemented Assembly Bill (AB) 1424. It modifies the Lanterman-Petris-Short Act, which governs **involuntary** treatment for persons with mental health disorders in California. The legislative intent of the bill is as follows:

“The Legislature finds and declares all of the following: Many families of persons with serious mental illness find the Lanterman-Petris-Short Act system difficult to access and not supportive of family information regarding history and symptoms. Persons with mental illness are best served in a system of care that supports and acknowledges the role of the family, including parents, children, spouses, significant others, and consumer-identified natural resource system. It is the intent of the Legislature that the Lanterman-Petris-Short Act system procedures be clarified to ensure that families are a part of the system response, subject to the rules of evidence and court procedures.”

23 **Procedures**

24 72-Hour Involuntary Hold of Persons with Mental Health Disorders for Evaluation and Treatment

- 25 I. In accordance with the LPS Act and the Children’s Civil Commitment and Mental Health
26 Treatment Act of 1988, persons who are a danger to themselves, a danger to others, and/or
27 gravely disabled due to a mental health disorder may be taken or caused to be taken into
28 custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or
29 placement for evaluation and treatment in a facility designated by the county for evaluation and
30 treatment with probable cause.
- 31 a. The 72-hour involuntary custodial hold shall be referred in this document as a “5150
32 hold.”
 - 33 i. This term shall encompass both W & I Code 5150 and W & I Code 5585.
 - 34 b. In Monterey County, the 72-hour period for the 5150 hold begins immediately upon
35 initially placing the person on the 5150 hold (even if this occurs in the community and
36 not in a designated facility).
 - 37 i. Monterey County considers weekends and holidays as part of the 72- hour
38 period of the 5150 hold.
 - 39 c. Persons authorized to initiate 5150 holds in Monterey County are:
 - 40 i. Peace officers
 - 41 ii. All physicians licensed by the Medical Board of California who live in or
42 practice in Monterey County
 - 43 iii. Designated Monterey County Behavioral Health (MCBH) mental health
44 professionals
 - 45 1. MCBH mental health professionals must possess current Monterey
46 County 5150 hold certification and designation as represented by a
47 5150 Professional Staff Authorization Card issued within the current
48 calendar year.
 - 49 iv. Designated attending staff of Monterey County 5150 facilities:
 - 50 1. Natividad Medical Center (NMC) in Salinas, CA; and
 - 51 2. Community Hospital of the Monterey Peninsula (CHOMP) in
52 Monterey, CA
 - 53 3. Designated attending staff from NMC and CHOMP must possess
54 current Monterey County 5150 hold certification and designation as
55 represented by a 5150 Professional Staff Authorization Card issued
56 within the current calendar year.
 - 57 v. Other mental health professionals designated by the MCBH Director
 - 58 1. Other mental health professionals designated by the MCBH Director
59 must possess current Monterey County 5150 hold certification and
60 designation as represented by a 5150 Professional Staff Authorization
61 Card issued within the current calendar year.
 - 62 d. To constitute probable cause to detain pursuant to W & I Code 5150, a statement of
63 facts must be known that would lead a person of ordinary care and prudence to
64 believe, or to entertain a strong suspicion, that the person detained has a mental

65 health disorder is a danger to themselves, a danger to others, and/or is gravely
66 disabled.

67 i. Danger to self

- 68 1. A person may be dangerous to self when they have recently
69 threatened or attempted suicide or some other serious bodily injury.
70 They may have demonstrated danger of substantial and imminent
71 harm to themselves through some recent act, attempt, or threat of the
72 same.

73 ii. Danger to others

- 74 1. A person may be dangerous to others when they have recently
75 threatened or attempted homicide or some other serious bodily injury
76 to others. They may have demonstrated danger of substantial and
77 imminent harm to others through some recent act, attempt, or threat
78 of the same.

79 iii. Gravely disabled

- 80 1. Gravely disabled means a condition in which a person, as a result of a
81 mental health disorder, is unable to provide for his or her basic
82 personal needs for food, clothing, and shelter (W & I Code Section
83 5008[h]).
84 2. Gravely disabled minor means a minor who, as a result of a mental
85 health disorder, is unable to use the elements of life which are
86 essential to health, safety, and development, including food, clothing,
87 and shelter, even though provided to minors by others. Intellectual
88 disability, epilepsy, or other development disabilities, alcoholism, other
89 drug abuse, or repeated antisocial behavior do not, by themselves
90 constitute a mental disorder (W & I Code Section 5585.25)

91 iv. When determining if probable cause exists to involuntarily hold a person, the
92 authorized person making the determination shall consider available relevant
93 information about the historical course of the person's mental disorder if the
94 authorized person determines that the information has a reasonable bearing
95 on the determination as to whether the person is a danger to others, or to
96 himself or herself, or is gravely disabled as a result of the mental disorder.

- 97 1. "Information about the historical course of the person's mental health
98 disorder" includes evidence presented by the person who has
99 provided or is providing mental health or related support services to
100 the person; by one or more members of the family of that person; and
101 evidence presented by the person subject to a determination or
102 anyone designated by that person.
103 2. AB 1424 mandates that the individual's historical course shall be
104 considered at all steps of the process. This means that family
105 members are able to give information to the treatment providers no

106 matter whether or not there is a signed Authorization for Use,
107 Exchange, and Disclose Confidential Behavioral Health Information
108 on file. The client has the legal right to challenge information provided
109 by the family. More specifically, AB 1424 requires:

- 110 a. The history of mental illness, including prior hospitalizations,
111 symptoms, and treatment received, will be considered when
112 determining whether the person is a danger to self/others or
113 gravely disabled
- 114 b. The hearing officer or court will obtain relevant evidence from
115 family members, treatment providers, or anyone designated
116 by the patient
- 117 c. That facilities will make available the information received by
118 the families to the hearing officer or judge
- 119 d. The peace officer or county-designated mental health
120 professional who wrote the legal document to detain the
121 patient ("5150") will consider information provided by the
122 family or treating professional. This will include information
123 about the history of the mental illness when deciding whether
124 there is probable cause for hospitalization.
- 125 e. If probable cause is based on a statement of person other than the person authorized
126 to initiate the hold, such person may be liable in a civil action for intentionally giving a
127 statement she or he knows to be false.

128
129 II. An application in writing for the 5150 hold is required.

- 130 a. The written application must utilize the "Application for Assessment, Evaluation, and
131 Crisis Intervention or Placement for Evaluation and Treatment" form issued by the CA
132 Department of Health Care Services (DHCS)
 - 133 i. This is currently form DHCS 1801 (06/18) and is available through the CA
134 DHCS website at
135 <http://www.dhcs.ca.gov/services/MH/Documents/DHCS-1801-0618.pdf>
- 136 b. This application must include
 - 137 i. A statement of the circumstances under which the person's condition was
138 called to the attention of the person initiating the hold; and
 - 139 ii. Detailed information regarding factual circumstances and observations
140 constituting probable cause that the person is a danger to themselves, danger
141 to others, and/or gravely disabled as a result of a mental health disorder.

142
143 III. The person initiating a 72-hour involuntary hold shall:

- 144 a. Give the person being placed on an involuntary hold the following information orally in
145 a language or modality accessible to the person. If the person cannot understand an

146 oral advisement, the information shall be given in writing. The information shall be in
147 substantially the following form:

- 148 i. The name, position, and agency of the person initiating the involuntary hold
- 149 ii. The following advisement:
 - 150 1. "You are not under criminal arrest, but I am taking you for examination
 - 151 by mental health professionals to (name of designated 5150 facility);"
 - 152 and
 - 153 2. "You will be told your rights by the mental health facility staff."
- 154 iii. If placed on an involuntary hold at his or her residence, also advise the person
155 of the following:
 - 156 1. "You may take a few personal items with you, which I will have to
 - 157 approve;"
 - 158 2. "Please inform me if you need assistance turning off any appliance or
 - 159 water;" and
 - 160 3. "You may make a phone call and leave a note to tell your friends or
 - 161 family where you have been taken."
- 162 iv. Fill out the advisement complete/incomplete section of the Application for
163 Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation
164 and Treatment form DHCS 1801 (06/18).
 - 165 1. Document a statement of good cause, as defined by regulations of the
 - 166 CA DHCS, if the advisement cannot be completed.
- 167 v. Take reasonable precautions to safeguard property in the possession of or on
168 the premises occupied by the person unless a responsible relative, guardian,
169 or conservator of the person is in possession of the property.
 - 170 1. Responsible relative includes the spouse, parent, adult child,
 - 171 domestic partner, grandparent, adult grandchild, or adult sibling of the
 - 172 person.

173
174 IV. 5150 Hold Documents:

175 The person who initiates the application for a 5150 hold shall ensure that a completed and
176 signed original copy or copy of signed original (AB 2099 section (e)) of the required form is
177 provided to the designated 72-hour assessment, evaluation, and treatment facilities.
178

179 V. Transportation of persons on 5150 hold

- 180 a. Person/agency initiating 5150 hold can transport the person if the person can be
181 transported safely based upon the assessment of the designated professional initiating
182 the hold.
- 183 b. By ambulance, if necessary
- 184 c. Law enforcement/peace officer (refer to Inter-Agency Law Enforcement/Mental Health
185 Protocol, last revised 03/23/2010), if necessary.

- 186 i. No peace officer seeking to transport, or having transported, a person to a
187 designated 5150 facility for assessment, shall be instructed by mental health
188 personnel to take the person to, or keep the person at, a jail solely because of
189 the unavailability of an acute bed, nor shall the peace officer be forbidden to
190 transport the person directly to the designated facility.
- 191 ii. No mental health employee from an agency providing Short-Doyle psychiatric
192 emergency services shall interfere with a peace officer performing duties
193 under W & I Code 5150 by preventing the peace officer from entering a
194 designated facility with the person to be assessed, nor shall any employee of
195 such an agency require the peace officer to remove the person without
196 assessment as a condition of allowing the peace officer to depart. (W & I Code
197 5150.1)
- 198 iii. Whenever a peace officer transports a person to a designated facility for
199 assessment the designated facility shall not delay that officer longer than is
200 necessary to complete all required documentation, and to ensure the safe and
201 orderly transfer of custody of the detained person. (W & I Code 5150.2)
- 202

203 Responsibility of Designated 5150 Facility

- 204 I. Monterey County designated facilities for 72-hour assessment, evaluation, and intensive
205 treatment related to 5150 holds are the following:
- 206 a. Natividad Medical Center (NMC), Salinas
207 b. Community Hospital of the Monterey Peninsula (CHOMP), Monterey
208
- 209 II. It is the responsibility of the 5150 facility to provide adequate in-service training to their
210 personnel to assure up-to-date and thorough knowledge of the 5150 status and the County
211 Mental Health policy.
- 212
- 213 III. All persons brought to a designated 5150 facility on a 5150 hold will be assessed to determine
214 the need for admission (5151)
- 215
- 216 IV. The designated facility shall keep, for each patient evaluated, a record of the “detainment”
217 advisement given to the person on a 5150 hold, which shall include all of the following:
- 218 a. The name of the person detained for evaluation.
219 b. The name and position of the peace officer or mental health professional taking the
220 person into custody.
221 c. The date the advisement was completed.
222 d. Whether the advisement was completed.
223 e. The language or modality used to give the advisement.
224 f. If the advisement was not completed, a statement of good cause, as defined by
225 regulations of the State Department of Health Care Services
226

- 227 V. If the facility admits the person:
- 228 a. At the time of admission, staff at the admitting designated 5150 facility shall:
- 229 i. Give the patient being admitted the following information orally and in writing
- 230 in a language or modality accessible to the person. The written information
- 231 shall be available to the person in English and in the language that is the
- 232 person's primary means of communication. Accommodations for other
- 233 disabilities that may affect communication shall also be provided. The
- 234 information shall be in substantially the following form:
- 235 1. The name and position of the staff from the admitting designated 5150
- 236 facility.
- 237 2. The following advisement:
- 238 • "You are being placed into this psychiatric facility because it is our
- 239 professional opinion that, as a result of a mental health disorder, you
- 240 are likely to [select the appropriate choices(s)]: harm yourself, harm
- 241 someone else, be unable to take care of your own food, clothing, or
- 242 shelter"
- 243 • The facts upon which the allegation of dangerousness or gravely
- 244 disabled due to mental health disorder is based, including pertinent
- 245 facts arising from the admission interview
- 246 • "You will be held for a period up to 72 hours."
- 247 • "During the 72-hours you may also be transferred to another facility."
- 248 • "You may request to be evaluated or treated at a facility of your
- 249 choice. You may request to be evaluated or treated by a mental
- 250 health professional of your choice. We cannot guarantee the facility or
- 251 mental health professional you choose will be available, but we will
- 252 honor your choice if we can."
- 253 • "During these 72-hours you will be evaluated by the facility staff, and
- 254 you may be given treatment, including medications."
- 255 • "It is possible for you to be released before the end of the 72 hours.
- 256 But if the staff decides that you need continued treatment you can be
- 257 held for a longer period of time."
- 258 • "If you are held longer than 72 hours, you have the right to a lawyer
- 259 and a qualified interpreter and a hearing before a judge. If you are
- 260 unable to pay for the lawyer, then one will be provided to you free of
- 261 charge."
- 262 • "If you have questions about your legal rights, you may contact the
- 263 county Patients' Rights Advocate (provide the Patients' Rights
- 264 Advocate name and contact information)"
- 265 ii. If advisement is not completed at time of admission, advisement process shall
- 266 be continued for the duration of the patient's hold until completed.

- 267 b. The written record of the advisement above will be entered into the Involuntary Patient
268 Advisement form (DHCS 1802 aka MH 303) as issued by the CA DHSC.
269 i. The form is available on the CA DHCS website at
270 [http://www.dhcs.ca.gov/formsandpubs/forms/Pages/Mental_Health-](http://www.dhcs.ca.gov/formsandpubs/forms/Pages/Mental_Health-Forms.aspx)
271 [Forms.aspx](http://www.dhcs.ca.gov/formsandpubs/forms/Pages/Mental_Health-Forms.aspx).
272 ii. The original MH 303 form should be given to the patient and a copy kept in the
273 patient's record.
274 c. The facility may detain him/her for evaluation and treatment for a period of time not to
275 exceed 72 hours.
276 ii. In Monterey County, the 72-hour period for the 5150 hold begins immediately
277 upon initially placing the person on the 5150 hold (even if this occurs in the
278 community and not in a designated facility).
279 iii. Monterey County considers weekends and holidays as part of the 72-hour
280 period of the 5150 hold.
281 d. Patient will receive psychiatric evaluation as soon after admission as possible and will
282 receive the treatment and care his/her condition requires for the full period of time
283 he/she is held.
284 e. Patient has the right to refuse anti-psychotic medication in the absence of an
285 emergency or a judicial determination of incapacity.
286 f. Patient shall be released before 72 hours if the psychiatrist directly responsible for
287 person's treatment believes, as a result of his/her personal observation, that the
288 patient no longer requires evaluation and treatment.
289 g. If a patient on involuntary status develops a medical condition and requires transfer to
290 a medical floor of the facility for treatment, the involuntary status will continue in force
291 unless the psychiatrist who is directly responsible for the patient's treatment, upon
292 personal observation, discontinues the involuntary status, or if the time limit of the hold
293 expires. In such case, the patient will be notified that he/she is no longer on
294 involuntary status.

295

296 VI. The Monterey County Behavioral Health Bureau Director or designee and the peace officer
297 who initiated the 5150, or a designee within that law enforcement agency, will be notified if the
298 person is released after 72-hour detention, not detained, or is detained for less than 72-hours
299 if:

- 300 a. If the police officer requests notification at the time he/she makes application, and the
301 police officer certifies that detained person's actions would support filing of criminal
302 charges, and the notice is limited to patient's name, address, date of admission, and
303 date of release.
304 b. It will be the responsibility of the requesting officer or his agency to furnish the name
305 and telephone number of the person being contacted.
306

307

VII. By the end of the 72-hour detention the patient shall be:

- 308 a. Released, or
- 309 b. Referred for further care on a voluntary basis, or
- 310 c. Certified for intensive treatment (Pursuant to Section 5250), or
- 311 d. Referred or appointed a conservator or temporary conservator.
- 312 e. Referring professionals or agencies will be notified if person is not admitted or is
- 313 detained for less than 72 hours.
- 314 f. A 5150 application or admission at no time authorizes the provision of medical
- 315 treatment without the patient's consent.
- 316

317 VIII. If the person is not admitted, but is determined to be in need of mental health treatment, all
318 available alternative services will be offered.

319

320 COMMUNICATION WITH MENTAL HEALTH PROVIDERS ABOUT MENTAL HEALTH CLIENTS:

321

322 IX. Outpatient Services:

- 323 a. California and Federal law require that mental health providers obtain authorization
- 324 from the client before they are able to communicate with family members, even to
- 325 reveal that a person is a client.
- 326

326

327 X. Inpatient Services:

- 328 a. California law requires that hospitals inform families that a client has been admitted,
- 329 transferred, or discharged unless the client requests that the information not be
- 330 disclosed. If the admission is to a mental health unit and the patient is unable to
- 331 authorize the release of information, daily attempts shall be made in an effort to obtain
- 332 consent or authorization. If this information is requested by the spouse, parent, child,
- 333 or sibling of the patient and the patient is unable to authorize the release of such
- 334 information, the requester shall be given notification of the person's presence in the
- 335 facility.
- 336 b. Hospitals are required to notify clients that they have a right to refuse hospital
- 337 disclosure of this information.
- 338 c. California and Federal law require that the hospital staff obtain authorization to
- 339 disclose anything else to family members
- 340

340

341 XI. Family's Option:

- 342 a. Although mental health providers are constrained in their ability to communication with
- 343 families without prior authorization, family members may provide information to
- 344 treatment teams with or without authorization from the client.
- 345

345

346

347

348 Fourteen-Day (14) Hold of Persons with Mental Health Disorders for Evaluation and Treatment (W
349 & I Code § 5250)

350
351 I. If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section
352 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section
353 5200) or Article 3 (commencing with Section 5225) and has received an evaluation, he or she
354 may be certified for **not more** than 14 days of intensive treatment related to the mental health
355 disorder, under the following conditions:

- 356
357 a) The professional staff of the agency or facility providing evaluation services has
358 analyzed the person’s condition and has found the person is, as a result of a mental
359 health disorder, is a danger to others, or to himself or herself, or gravely disabled.
- 360 b) The facility providing intensive treatment is designated by the county to provide
361 intensive treatment, and agrees to admit the person. No facility shall be designated to
362 provide intensive treatment unless it complies with the certification review hearing
363 required by this article. The procedures shall be described in the county Short-Doyle
364 plan as required by Section 5651.3.
- 365 c) The person has been advised of the need for, but has not been willing or able to
366 accept, treatment on a voluntary basis.
- 367 d) Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not
368 “gravely disabled” if that person can survive safely without involuntary detention with
369 the help of responsible family, friends, or others who are both willing and able to help
370 provide for the person’s basic personal needs for food, clothing, or shelter. However,
371 unless they specifically indicate in writing their willingness and ability to help, family,
372 friends, or others shall not be considered willing or able to provide this help.

373
374 II. The professional person in charge of a facility providing intensive treatment, pursuant to
375 Section 5250 or 5270.15, or that person’s designee, shall notify the county behavioral health
376 director, or the director’s designee, and the peace officer who made the original written
377 application for 72-hour evaluation pursuant to Section 5150 or a person who is designated by
378 the law enforcement agency that employs the peace officer, that the person admitted pursuant
379 to the application has been released unconditionally if all of the following conditions apply (W &
380 I Code 5250.1):

- 381
382 a) The peace officer has requested notification at the time he or she makes the application for
383 72-hour evaluation.
- 384 b) The peace officer has certified in writing at the time he or she made the application that the
385 person has been referred to the facility under circumstances which, based upon an
386 allegation of facts regarding actions witnessed by the officer or another person, would
387 support the filing of a criminal complaint.

- 388 c) The notice is limited to the person's name, address, date of admission for 72-hour
389 evaluation, date of certification for intensive treatment, and date of release.

390 If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses
391 any record of information obtained pursuant to the notification requirements of this section, the
392 officer, agency, or designee shall destroy that record two years after receipt of notification.

393
394 III. Persons who may authorize 5250:
395

396 For a person to be certified under this article a notice of certification shall be signed by two people:

- 397 a) The first person shall be the professional person, or his or her designee, in charge of
398 the agency or facility providing evaluation services.
399 I. A designee of the professional person in charge of the agency or facility shall
400 be a physician or a licensed psychologist who has a doctoral degree in
401 psychology and at least five years of postgraduate experience in the diagnosis
402 and treatment of emotional and mental disorders.
403 b) The second person shall be a physician or psychologist who participated in the
404 evaluation.
405 I. The physician shall be, if possible, a board-certified psychiatrist.
406 II. The psychologist shall be licensed and have at least five years of
407 postgraduate experience in the diagnosis and treatment of emotional and
408 mental disorders.
409 c) If the professional person in charge, or his or her designee, is the physician who
410 performed the medical evaluation or a psychologist, the second person to sign may be
411 another physician or psychologist unless one is not available, in which case a licensed
412 clinical social worker or a registered nurse who participated in the evaluation shall sign
413 the notice of certification.
414

415 IV. A notice of certification is required for all persons certified for intensive treatment pursuant to
416 *Section 5250 or 5270.15*, and shall be in substantially the following form (as applicable):
417

418 The authorized agency providing evaluation services in the County of Monterey has evaluated
419 the condition of:

- 420 1. Name; address; age, sex; marital status
421 2. We the undersigned allege that the above-named person is, as a result of mental
422 disorder:
423 o A danger to others
424 o A danger to self
425 o Gravely disabled as defined in paragraph (1) of subdivision (h) or subdivision
426 (l) of Section 5008 of the Welfare and Institutions Code

- 427 ○ The specific facts which form the basis of your opinion about the named-
428 person meets one or more of the classifications indicated above are as
429 follows: _____ [describe in detail]
- 430 3. Name of certifying person
- 431 4. The above-named person has been informed of this evaluation, and has been advised
432 of the need for, but has not been able or willing to accept treatment on a voluntary
433 basis, or to accept referral to, the following services: _____ [specific
434 details about the patient shall be included]
- 435 5. We, therefore, certify the above-named person to receive intensive treatment related
436 to the mental disorder beginning this (Day/Month/Year), in the intensive treatment
437 facility herein named Natividad Medical Center (NMC)/Community Hospital of the
438 Monterey Peninsula (CHOMP).
- 439 6. Date
- 440 7. Signed (first person/designee)
- 441 8. Signed (second person/designee) representing _____ [facility name]
- 442 9. (Advisement of rights to involuntary patients 5250) I hereby state that I delivered a
443 copy of this notice this day to the above-named person and that I informed him or her
444 that unless judicial review is requested a certification review hearing will be held within
445 four days of the date on which the person is certified for a period of intensive treatment
446 and that an attorney or advocate will visit him or her to provide assistance in preparing
447 for the hearing or to answer questions regarding his or her commitment or to provide
448 other assistance. The court has been notified of this certification on this day.
- 449 10. Signed _____ (facility staff)
- 450
- 451 V. Advisement of Rights to Involuntary Patients (5250) must be completed in accordance with the
452 LPS Act; a copy of the certification notice shall be personally delivered to the patient certified,
453 the person's attorney, or Advocate designated (W & I Code 5250).
- 454
- 455 VI. Delivery of Copies of the Certification Notice
- 456 1. The patient certified shall also be asked to designate any person who is to be sent a copy
457 of the certification notice.
- 458 ○ If he or she is incapable of making such a designation at the time of certification,
459 he or she shall be asked to designate such a person as soon as he or she is
460 capable.
- 461 2. A copy must also be sent to the person's attorney or advocate designated to represent the
462 patient in the certification review hearing.
- 463 3. A copy should be sent by fax (831) 796-8639 to the Patients' Rights Advocate as soon as
464 possible after personal delivery to the patient.
- 465 ○ As soon after the certification as practicable, an attorney or patient advocate shall
466 meet with the person certified to discuss the commitment process and to assist the

467 person in preparing for the certification review hearing or to answer questions or
468 otherwise assist the person as is appropriate (W & I Code 5255).

- 469 4. A copy of the certification notice must be submitted to the superior court with a copy of the
470 decision that results from the certification hearing. (W & I Code Section 5253)

471
472 VII. Advisement of Rights To Patient

- 473 1. The person who delivers the copy of the notice of certification to the patient certified must,
474 at the time of delivery, inform the certified patient that he or she has the right to either:
- 475 ○ A certification review hearing within four days
 - 476 ○ A review by a court pursuant to a writ of habeas corpus to determine whether
477 probable cause exists to detain him or her for intensive treatment related to the
478 mental health disorder.
- 479 2. The certified patient must be informed of his or her rights with respect to the certification
480 review hearing, including the right to the assistance of another person to prepare for the
481 hearing and/or answer other questions and concerns regarding the involuntary
482 commitment.
- 483 3. The certified patient must receive an explanation regarding what judicial review by habeas
484 corpus entails and be informed of his right to counsel at these hearings, including counsel
485 appointed by the court pursuant to Welfare and Institutions Code Section 5276. (W& I
486 Code Section 5254, 5254.1)

487
488 VIII. Documentation of Notice to Patient

- 489 1. The psychiatric social worker or staff who delivers a copy of the certification notice and
490 advises the patient of his right to review by a certification review hearing or by a court
491 pursuant to a writ of habeas corpus must complete the "Advisement of Rights Involuntary
492 Patient" form.
- 493 2. Clearly document efforts in asking the person certified if he or she would like to designate
494 a person to receive a copy (in the event the person certified was previously incapable of
495 making such a designation at the time of certification)
- 496 3. This form provides documentation that the requirements of delivery of copies of the notice
497 of certification as specified in W & I Code Section 5353 and advisement of the right of
498 review as specified in W & I Section 5254 and 5254.1 have been met (Attachment).
- 499 4. This form should be placed in the patient's medical record (Attachment)

- 500
501 IX. When a person is certified for intensive treatment pursuant to Sections 5250 and 5270.15, a
502 certification review hearing shall be held unless judicial review has been requested as provided
503 in Sections 5275 and 5276. The certification review hearing shall be within four days of the
504 date on which the person is certified for a period of intensive treatment unless postponed by
505 request of the person or his or her attorney or advocate. Hearings may be postponed for 48
506 hours or, in counties with a population of 100,000 or less, until the next regularly scheduled
507 hearing date (W & I Code 5256).

508

509 X. Individual's rights at this certification hearing (W & I Code § 5256.4)

510 1. Assistance by an attorney or advocate.

511 2. To present evidence on his or her own behalf.

512 3. To question persons presenting evidence in support of the certification decision.

513 4. To make reasonable requests for the attendance of facility employees who have
514 knowledge of, or participated in, the certification decision.

515 5. If the person has received medication within 24 hours or such longer period of time as the
516 person conducting the hearing may designate prior to the beginning of the hearing, the
517 person conducting the hearing shall be informed of that fact and of the probable effects of
518 the medication.

519 a) The hearing shall be conducted in an impartial and informal manner in order to
520 encourage free and open discussion by participants. The person conducting the
521 hearing shall not be bound by rules of procedure or evidence applicable in judicial
522 proceedings.

523 b) Reasonable attempts shall be made by the mental health facility to notify family
524 members or any other person designated by the patient, of the time and place of
525 the certification hearing, unless the patient requests that this information not be
526 provided. The patient shall be advised by the facility that is treating the patient that
527 he or she has the right to request that this information not be provided.

528 c) All evidence which is relevant to establishing that the person certified is or is not
529 as a result of mental disorder a danger to others, or to himself or herself, or
530 gravely disabled, shall be admitted at the hearing and considered by the hearing
531 officer.

532 d) Although resistance to involuntary commitment may be a product of a mental
533 disorder, this resistance shall not, in itself, imply the presence of a mental disorder
534 or constitute evidence that a person meets the criteria of being dangerous to self
535 or others, or gravely disabled.

536 6. Hearing officer must find probable cause that the individual meets the criteria for an
537 additional 14-day hold.

538 7. Individual may challenge granting of 14-day hold by filing a writ of habeas corpus with the
539 Superior Court any time during the 14-day hold.

540 8. If not already requested, a Riese hearing can be requested by staff at any time during the
541 14-day hold. Each subsequent hold requires a new Riese hearing if medication have been
542 refused by the patient.

543 9. See policy of Riese hearings regarding process, including description on burden of proof
544 (clear and convincing) that will be different than a certification hearing.

545

546 XI. A person who has been certified for a period of intensive treatment pursuant to Section 5250
547 shall be released at the end of 14 days unless the patient either (W & I Code § 5257):

548 1. Agrees to receive further treatment on a voluntary basis.

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2. Is certified for an additional 14 days of intensive treatment pursuant to Article 4.5 (commencing with Section 5260).
 3. Is certified for an additional 30 days of intensive treatment pursuant to Article 4.7 (commencing with Section 5270.10).
 4. Is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).
 5. Is the subject of a petition for post-certification treatment of a dangerous person filed pursuant to Article 6 (commencing with Section 5300).

This is to certify that on _____ (date), the undersigned advised

_____ (Name of Patient), a patient at Natividad
Medical Center of the following:

1. That the patient is being certified for not more than 14-days of involuntary intensive treatment for mental health disorders
2. His/her legal rights to designate any person whom he/she wishes informed regarding his/her certification or judicial review (the patient understands that he/she has the right to request that this information not be provided), and the patient has designated the following person(s):

Name	Address	Relationship
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Name	Address	Relationship
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3. His/her legal right to certification review hearing or a habeas corpus hearing which was explained to him/her by the superior court to review this certification for involuntary treatment in order to determine whether he/she is a danger to others or to himself/herself or is gravely disabled; whether he/she has been advised of, but has not accepted voluntary treatment.
4. His/her legal right to assistance of an advocate at a certification review hearing or to counsel, including court-appointed counsel at no cost to him/her if he/she is unable to pay for such legal services, to prepare for and represent him/her at a writ of habeas corpus hearing.

I have personally delivered a copy of the certification notice to him/her.

Staff Signature _____ Print staff full name _____

Time: _____ AM/PM

Date: _____

Esto es para certificar que el _____ (fecha), el suscrito informo a _____ (Nombre del paciente), un paciente en el Centro Médico de la Natividad de lo siguiente:

1. Que el paciente está siendo certificado por no más de 14 días de tratamiento involuntario intensivo para trastornos de salud mental
2. Sus derechos legales para designar a cualquier persona que quiera informar acerca de su certificación o informe judicial (el paciente entiende que tiene derecho a solicitar que esta información no sea proporcional) y el paciente ha designado a las siguientes personas:

Nombre	Domicilio	Relación
Nombre	Domicilio	Relación

3. Su derecho de revisión a la certificación de audiencia o una audiencia de hábeas corpus que se le explicó a el paciente por el Tribunal superior para revisar esta certificación para tratamiento involuntario para determinar si usted es un peligro para otros o para sí mismo, o está gravemente discapacitado; si éste ha sido advertido, pero no aceptó tratamiento voluntario.
4. Su derecho a la asistencia de un abogado en la certificación de revisión auditiva o ser aconsejado, esto incluye abogado de oficio sin costo para usted si usted no tiene capacidad de pagar por servicios legales, para preparar y representarlo en la audiencia de hábeas corpus.

Yo personalmente he entregado una copia de la notificación de la certificación a él/ella.

Firma de Personal _____ Nombre de Personal _____

Hora: _____ AM/PM

Fecha: _____