

**County of San Diego Health and Human Services Agency
Behavioral Health Services**

**LANTERMAN-PETRIS-SHORT (LPS) DESIGNATION
GUIDELINES AND PROCESSES
FOR FACILITIES WITHIN SAN DIEGO COUNTY**



LPS DESIGNATION GUIDELINES AND PROCESSES FOR FACILITIES WITHIN SAN DIEGO COUNTY

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County of San Diego Health and Human Services Agency
Behavioral Health Services (BHS)

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DECLARATION:

Facilities which meet the criteria and process requirements set forth in this document may be designated by the San Diego County Board of Supervisors to evaluate and treat persons involuntarily detained under the Lanterman-Petris-Short (LPS) Act, California Welfare and Institutions Code (WIC) Section 5000 et seq., and California Code of Regulations (CCR) Title 9, Section 821.

OBJECTIVES:

The objectives of these LPS Designation Guidelines and Processes for Facilities within San Diego County are to:

- 1) Enhance the capability and overall quality of the mental health delivery system in San Diego County.
- 2) Ensure proper utilization of the designation authority by granting it to only those facilities which meet specified guidelines.
- 3) Establish the terms of and conditions pertaining to the delegation of authority by which individuals are taken into custody under the LPS Act.

I. LPS DESIGNATION GUIDELINES FOR FACILITIES

DELEGATION OF AUTHORITY TO INVOLUNTARILY DETAIN AND TREAT

- A. The authority under the LPS Act for a facility to hold individuals and to involuntarily treat mental health patients is vested by state law by the San Diego County Board of Supervisors.
- B. Involuntary detention under the LPS Act constitutes a significant deprivation of civil liberties that is

supported under limited circumstances described in law and regulation.

- C. Involuntary detention and treatment is deemed necessary when required to protect the safety of certain individuals and the community in circumstances permitted by law.
- D. These guidelines describe the nature, extent, and processes by which authority for facilities to involuntarily detain and treat under the LPS Act is designated by the County of San Diego Board of Supervisors.

FACILITY OPERATIONS GUIDELINES

- A. A designated facility (defined here as an entity that meets LPS State and local requirements) provides evaluation and treatment services for persons who, as a result of a mental disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, are judged to be dangerous to self or others and/or gravely disabled and is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.” It adheres to those regulations and statutes relevant to the clinical, health, and safety needs of those persons.
 - 1. The facility shall comply with applicable constitutional, statutory, regulatory, and decisional law, including but not limited to WIC § 5000 et seq., the requirements set forth in CCR, Title 9, Sections 663, 821-829 and 835-868, the requirements governing mental health facilities and/or treatment of CCR Titles 22 and 24, the Civil Code, Health and Safety Code, and all applicable policies, procedures, or guidelines governing LPS designation established by the County of San Diego, Health and Human Services Agency Behavioral Health Services (BHS) department.
 - 2. The facility shall maintain all applicable current licenses as appropriate for its type. No designated facility may show any gross violation of clinical practice and/or safety provisions relevant to the class of persons for whom the designation applies, although the violations may not be explicitly covered by licensing standards. Any such gross violations, as determined by the Director of BHS, can result in discontinuance of the facility designation.
 - 3. All designated Skilled Nursing Facilities and Psychiatric Health Facilities shall comply with all provisions of CCR, Title 22, and all laws, regulations, and standards of care as apply to them. The facility shall assume the full responsibility for assuring appropriate patient care and safety, and accepts all attendant legal obligations.
 - 4. The facility shall have 24-hours-a-day, 7-days-a-week mental health admission, evaluation, referral, and treatment capabilities, and provide whatever mental health treatment and care involuntarily detained persons require for the full period they are held (WIC, Section 5152).

5. All areas of a general acute care hospital¹ or acute psychiatric hospital may be designated, providing:
- a) The facility has one or more inpatient mental health units under the same licensure, patients with a mental health problem concurrently needing hospitalization in the medical floor or portion of the hospital will continue to receive mental health services in the physical health care portion, as would be appropriate for the patient's mental health status - such as a daily re-evaluation and/or psychiatric medication adjustment visit, client informing materials, education for medical staff and capability for holding required hearings such as a private room.
 - b) To be LPS designated, an acute psychiatric hospital's Emergency Department must be located in the same licensed facility as the LPS Inpatient Unit or under the same license as the LPS Inpatient Unit.
 - c) LPS designation of a general acute care hospital's Emergency Department is an optional designation to facilitate consistency within the local mental health system. General acute care hospital Emergency Departments may be considered "designated facilities" regardless of whether they are LPS designated by the County. (See WIC §§ 5008, 5150; and Health & Saf. Code, § 1250). Regardless of whether a general acute care hospital has obtained the optional LPS designation for its Emergency Department, Emergency Department physicians who have successfully completed the BHS training and testing approved by the Director of BHS related to the WIC §§ 5150 and 5585.50 detention processes can write 5150 holds.
 - d) An Urgent Care sharing a facility/building with an LPS Inpatient Unit may be designated as an LPS Urgent Care, as long as it has the documented capability to provide all required emergency care for LPS clients.
 - e) A community program, such as a Crisis Stabilization Unit (CSU), may be designated as long as it meets all applicable LPS regulations as referenced within these guidelines.
 - f) Involuntarily detained patients shall be treated in areas other than the mental health unit only if their medical condition requires it.
 - g) Appropriate mental health staffing, assessments, programs and treatment shall be provided to all involuntarily detained patients regardless of their physical location within the facility.
 - h) Patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement shall be housed separately from the civilly detained or voluntary behavioral health patient population.

¹ LPS designation of a general acute care hospital's Emergency Department is an optional designation to facilitate consistency within the local mental health system. General acute care hospital Emergency Departments may be considered "designated facilities" regardless of whether they are LPS designated by the County. (See WIC §§ 5008, 5150; and Health & Saf. Code, § 1250.)

- i) All rights guaranteed to mental health patients by statutes and regulations are observed for all individuals with specific exceptions (WIC Section 5326) for patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement. In order to ensure access to mental health services to patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement, the Director of BHS has adopted the following conditions under which certain rights may not be guaranteed:
 - For patients from a Federal Detention facility under the jurisdiction of the Department of Justice, Department of Corrections, or imprisoned primarily pursuant to the jurisdiction of state or federal law, the Departments of Justice and Corrections or federal and state law enforcement shall have the authority to determine if the right to make and receive phone calls, to receive visitors, to write or receive mail, or to access personal property may be allowed in the LPS facility. The grounds for such an abridgement of rights must be documented in the patient file given to the hospital and the removal of rights must be noted in the patient's hospital record.
 - The rationale for denial of any rights, including those noted above that have been removed by the Department of Justice or the Department of Corrections, shall, in all cases, be entered into each patient's treatment record.
 - j) All rights to administrative and judicial review to which patients may be entitled, including but not limited to certification hearings, medication capacity hearings, and writs of habeas corpus, shall be properly initiated, implemented, and conducted.
 - k) Seclusion and restraints shall not be used to compensate for inadequate staffing, lack of program or building security. Use of seclusion and/or restraints shall comply with all Title 9, Title 22, Health and Safety Code, Centers for Medicare & Medicaid Services (CMS), and The Joint Commission (TJC) standards.
 - l) The involuntary treatment provisions of the LPS Act shall not be used to authorize or deliver medical treatment. Consent to medical treatment must be obtained as otherwise provided in law.
6. The facility ensures that, of the time patients spend in a non-designated medical facility emergency department to which they have come for medical treatment and wherein identified staff believe there is a need for 5150 evaluation, any detention time from the time that the person has been detained on the 5150 and is awaiting placement to a designated facility is deducted from the subsequent 72-hour detention period, pursuant to Health and Safety Code Section 1799.111.

7. Prior to admitting a person to a designated facility pursuant to WIC Section 5150, 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, as per WIC Section 5151.
8. Once a facility accepts the patient for treatment, it shall assume the responsibility for seeing the case through to its appropriate disposition (i.e. the clinically indicated, available, and legally allowable treatment, referral or placement that best meets the patient's clinical needs and desires).
9. The facility shall ensure that information and services, rights, notifications, and advertisements are communicated in a language and modality accessible to the patient. The facility shall make arrangements for interpreters or for use of other mechanisms to ensure adequate communication between patients and personnel, if any language or communication barriers exist between facility staff and patients.
10. The facility shall allow BHS to review the facility for initial designation and for site reviews which will occur every 3 years.
11. The facility shall allow the County of San Diego Patients' Rights Advocate access to all staff and patients at all times to conduct investigations to resolve specific complaints. Patients shall be allowed access to the Patients' Rights Advocate at any time.
12. The facility shall allow the Director of BHS or designee and the County of San Diego Patients' Rights Advocates access, upon request, to all treatment records, logs, policy and procedure manuals, contracts, credentials files and/or personnel records of staff empowered to initiate 72-hour holds, and other professional staff in order to conduct investigations and assess compliance with LPS and Patients' Rights statutes and regulations.
13. The facility shall abide by the procedures established by the Superior Court and BHS for all mental health-related court hearings that are facility-based (including but not limited to certification review [probable cause] hearings, medication capacity ["Riese"] hearings, inpatient admission of persons 14 – 17 year old [Roger S.] hearings and clinical reviews), and court-based hearings (including writs of habeas corpus, medication capacity appeals, and all conservatorship proceedings).
 - a) The facility is responsible for transport and escort of patients to and from, and supervision at, all mental health-related court hearings.
 - b) The facility provides adequate space and staff to ensure that all facility-based hearings are conducted without interruption and in an atmosphere that affords privacy and ensures confidentiality and safety.
14. The facility shall abide by all Patients' Rights Conditions of Participation as set forth by CMS in 42 CFR part 482 inclusive of seclusion and restraint requirements and ensures that a physician or

qualified nursing staff perform face-to-face assessment of the patient within one hour of initiation of seclusion and/or restraint. The order of the treating physician details the date, time, and method of seclusion and/or restraint and the specific behavior supporting good cause for the intervention. The time limits of orders for restraint or seclusion are within CMS and TJC specifications. Staff shall continually assess, monitor, and evaluate patients in seclusion and/or restraints to ensure release at the earliest possible time. Facilities must abide by Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6) requirements regarding seclusion and restraint. The facility's policies and procedures for using seclusion and/or restraints with mental health patients shall adhere to the following principles and practices.

- a) The use of seclusion and/or restraint is limited to those behavioral emergencies wherein a person's behavior presents an imminent danger of serious harm to self or others and property.
 - b) Documentation supports staff awareness of patient's expressed preferences regarding de-escalation techniques and alternatives to seclusion and/or restraint, why patient preferences were not appropriate, and that seclusion and/or restraint was the least restrictive method available to prevent injury to patient or others.
 - c) The original physician order for seclusion and restraint, if renewed for another period of time, does not exceed the time limits established in Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6).
 - d) There is documentation for each incident of use of seclusion and/or restraint of all rights denied.
 - e) There is documentation, for each incident of use of seclusion and/or restraint, of all applicable rights having been restored after seclusion and/or restraint have ended.
15. The facility shall have a system and procedures in place to ensure the confidentiality, security, integrity, and accessibility of patient health information, inclusive of a contingency plan for the storage and protection of filed medical records against unauthorized intrusion and/or damage.
 16. The facility shall submit required quarterly reports to the Director of BHS regarding involuntary detentions, patients' rights denials, and electroconvulsive treatment administered, as required by WIC 5326.1, 5326.15, and CCR, Title 9, Section 866, and Title 22. Critical incidents are reported to appropriate Licensing, State, and County agencies, as needed.
 17. The facility shall notify BHS of any changes that may significantly affect the facility's conformance with the criteria for designation, including change of ownership, modification of physical structure, number of beds, demographic or diagnostic aspects of patient population, therapeutic services, or policies or procedures concerning staffing, program, or operations. Based on receipt and analysis of such information, the Director of BHS may require successful completion of a

focused review as a condition of continued facility designation. The focused review will occur within 6 months of the change.

18. The facility shall indemnify, and hold harmless the County of San Diego BHS, County of San Diego Board of Supervisors, and the State Department of Health Care Services (DHCS), and their officers, agents and employees, from and against any and all claims, losses, liabilities, or damages arising out of, or resulting from the facility's or its designees' exercise of County-granted LPS authority to detain and treat patients on an involuntary basis.

STAFFING GUIDELINES

- A. The facility shall have adequate 24-hour professional supervision to meet the clinical needs and ensure the safety of patients judged to be dangerous to themselves or others or gravely disabled.
- B. Staff shall hold current and valid California professional licenses where required and, upon request, copies will be available onsite.
- C. All staff involved in the evaluation and treatment of involuntary patients shall be fully conversant with the involuntary detention statutes (WIC § 5150 et seq.), with patients' rights statutes, (WIC §§ 5325 and 5325.1), and related regulations (9 CCR § 860 et seq.), inclusive of residents, attending physicians and psychologists, allied health professionals, and clinical employees.
 1. The facility shall make available for review required documentation of attendance of staff at in-service training concerning LPS and patients' rights statutes and regulations during orientation, at the time of hire, and at least annually thereafter.

POLICIES AND PROCEDURES

- A. The facility shall have acceptable policies and procedures, plans, and contracts (without compensation or inducement for referring patients) which comport to WIC, CCR, and the California Business and Professions Code related to the legal, ethical, fiscally sound, and clinically appropriate psychiatric treatment of both voluntary and involuntary patients. These policies and procedures, plans, and contracts shall be made available for review and must include, but are not limited to, the following:

1. ADMISSIONS POLICIES AND PROCEDURES

- a) To ensure that 5150 forms received by the facility contain documentation of a specific factual basis in support of each 5150
- b) To ensure safe and orderly transfer of physical custody of the person from law enforcement
- c) To ensure that a qualified professional conducts a face-to-face assessment of the person presented and makes the determination whether to admit pursuant to 5150, admit voluntarily, or refer for other services

- d) For disposition of persons brought in by law enforcement or otherwise presented for evaluation and treatment who are not admitted, including those who decline alternative services
- e) For establishing validity of conservatorship and obtaining approval for admission
- f) To ensure that persons assessed and admitted, voluntarily or involuntarily, receive an evaluation as soon as possible after admission
- g) To ensure that persons admitted receive whatever treatment and care his or her condition requires for the full period that he or she is hospitalized
- h) Regarding release before the end of a 72-hour hold
- i) To ensure documentation of patient's concerns, needs, limitations, and physical health needs (including assessment and documentation of pre-existing injuries), and determination of appropriate bed assignment (i.e. need for private room, proximity to nurse's station, factors affecting roommate selection, safety issues)
- j) To ensure documentation of patient's needs and preferences regarding the use of seclusion/restraint, including triggers and/or precipitants to aggressive behavior, patient's preferred de-escalation techniques, pre-existing medical conditions, limitations, or disabilities that constitute risk factors and history of trauma, physical or sexual abuse
- k) Regarding obtaining informed consent from the patient or conservator for psychotropic medication including explanation of type and dosage of medication, therapeutic effects, and potential side effects
- l) Regarding emergency administration of medication
- m) Regarding patient advisement of legal status
- n) To ensure receipt of state mandated patients' rights handbook, Quick Guide to Medi-Cal Behavioral Health For Adult, Older Adult and Children, and other patients' rights notifications and advisements
- o) To advise that the Beneficiary Handbook is present in all available threshold languages and that patients are advised of their right to review it in their preferred language
- p) Detailing methods for ensuring that treatment information and services, patient rights, due process (including procedures relating to rights, certification hearings, writs of habeas corpus, and medication capacity) notifications, advisements, are communicated in a language and modality accessible to the patient
- q) Regarding Department of Justice firearms prohibition, notification, and filing of paperwork
- r) Regarding patient consent for release of information, including circumstances requiring consent, information given to patient, documentation required, and method of ensuring patient receives copy of all signed consents

- s) Regarding inventory and safeguarding of all patient property upon admission
- t) Regarding filing of requests for Riese hearings
- u) To ensure documentation of good cause for all incomplete advisements and procedures for ensuring that the required subsequent attempts to advise are made and documented
- v) Regarding documentation of denials of patients' rights including documentation of good cause, appropriateness of denial as least restrictive, the time limit(s) of denial, and the end time of the denial period
- w) Providing evidence that rights regarding receiving visitors, making and receiving phone calls, and sending and receiving mail and/or access to personal property are not to be earned by the patient or subject to limitation by parent, guardian, or conservator. For patients from a Federal Detention facility under the jurisdiction of the Department of Justice, Department of Corrections, or imprisoned primarily pursuant to the jurisdiction of state or federal law, the Departments of Justice and Corrections or federal and state law enforcement shall have the authority to determine if those rights may be allowed in the LPS facility
- x) Providing evidence that trained staff is available at all times to inform involuntary patients requesting release of right to file writ of habeas corpus, including providing and assisting with appropriate paperwork and ensuring timely filing. This includes evidence regarding patient advisement of legal status and rights to a hearing by writ of habeas corpus after they or any person acting on their behalf has made a request for release and the request can be made to any treating staff member.
- y) To ensure psychotropic medication consent is documented from the patient or conservator including explanation of type and dosage of medication, therapeutic effects, and potential side effects
- z) Detailing that, absent judicial determination of incompetence to consent, patients on 72- hour or 14-day holds or temporary conservatorship who refuse to give consent are medicated only in an emergency as defined in 9 CCR § 853
- aa) To ensure medications are not used in quantities that interfere with the patient's ability to routinely participate in the treatment program
- bb) To ensure that, for any disclosure of records or information, the facility has appropriate documentation including: the date, circumstance under which disclosure was made, to whom disclosure was made and specific information disclosed
- cc) Regarding separate consents to treatment including, but not limited to, psychiatric medications, voluntary treatment, voluntary ECTs, and medical treatment
- dd) Regarding room searches and search of patients

2. FACILITY PRACTICES POLICIES AND PROCEDURES

- a) Regarding facility code of ethics and conflict of interest; resolving patient complaints, grievance and appeal processes, and Advance Directives
- b) Regarding criteria for identifying potential abuse, procedures for management of alleged physical and sexual abuse, mandated abuse reporting
- c) Detailing program services and schedules and addressing staffing plans based on patient care
- d) Regarding mobile assessment team including member names, professional licenses, proof of 5150 training, scope of authority, staffing schedules and procedures to ensure review of 5150s written by mobile assessment team
- e) Regarding medication dispensing and control
- f) Regarding internal monitoring, review and auditing of medical records on an ongoing basis
- g) Regarding Utilization Review
- h) Regarding identification, reporting and management of critical incidents
- i) Detailing safety and disaster plans
- j) Regarding 5150 training and list of designated staff
- k) To ensure timely notification to court and to clients of hearings
- l) Regarding elopement
- m) Regarding safeguarding of patient belongings throughout hospitalization and during transfer and discharge
- n) Regarding usage of the Tarasoff procedure

3. SECLUSION AND RESTRAINT POLICIES AND PROCEDURES

- a) Reflecting that the use of seclusion and/or restraint is limited to those behavioral emergencies wherein a person's behavior presents an imminent danger of serious harm to self or others and property
- b) Addressing practices staff must follow to obtain an order for the use of seclusion and/or restraint when the physician is not on site
- c) To ensure documentation supports staff awareness of patient's expressed preferences regarding de-escalation techniques and alternatives to seclusion and/or restraint, the reasons why patient preferences were not appropriate in each instance, and that seclusion and/or restraint was least restrictive method available to prevent injury to patient or others
- d) To ensure that a physician or qualified nursing staff performs a face-to-face assessment of the patient within one hour of initiation of seclusion and/or restraint
- e) Describing necessary details to be included on the physician order for seclusion and/or

restraint

- f) To ensure that staff continually assess, monitor, and evaluate patients in seclusion and/or restraints to ensure release at the earliest possible time
- g) Regarding debriefing following incidents of use of seclusion and/or restraint

4. AFTERCARE/DISCHARGE POLICIES AND PROCEDURES

- a) To ensure that discharge planning begins upon a person's admission to the facility
- b) Regarding an assessment of present level of functioning, including the person's capacity to self- provide food, clothing, and shelter
- c) Regarding diagnosis, including treatment initiated, medications, and dosage schedules
- d) Describing the specific programs and services required so the person can minimize future confinement and receive the treatment in the least restrictive setting
- e) Regarding the identification of the mental health personnel responsible for the aftercare needs
- f) To ensure referral and assistance in contacting providers of public social services, legal aid, educational, and vocational services
- g) To ensure that if the patient is homeless, arrangements have been attempted for the voluntary placement of the person in a living environment suitable to his or her needs
- h) To ensure the facility makes a copy of the written plan available to the patient
- i) Describing discharges pursuant to court hearing or discharges Against Medical Advice (AMA)
- j) Discharge planning contains the required Model Care Coordination Plan (MCCP) Required Elements of WIC § 5402.5
- k) Regarding routine discharge activities (i.e. return of property, transportation, follow-up care scheduling)

5. POLICIES AND PROCEDURES RELATED TO MINORS

- a) Specification of educational or training needs, provided these needs are necessary for the minor's well-being
- b) Facility obtains the necessary legal consents for admission, medication, medical treatment, etc., from the legally responsible adult
- c) Facility adheres to and demonstrates a knowledge of administrative and legal procedures for admission of minors to acute care psychiatric hospital treatment
- d) The facility makes every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained and to involve them in the clinical evaluation and treatment

- e) When additional treatment is determined to be necessary, a written mental health treatment plan is completed which identifies the least restrictive placement alternative in which the minor can receive the necessary treatment
- f) The facility consults with the minor's family, legal guardian, or caretaker to obtain further needed consents and consults regarding discharge planning and aftercare
- g) Clinical evaluations include a psychosocial evaluation of the family and living environment
- h) Notification of proper authorities and disposition of minor if the minor's parent, legal guardian or caretaker is unwilling or unable to accept physical custody of the minor upon release
- i) Emancipated minors, married minors, and minors who are or have been in armed services are treated as adults
- j) Responsible party may not limit the minor's exercise of rights including phone calls and visitors with noted exceptions for minors under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement

PHYSICAL ENVIRONMENT

- A. All behavioral health units shall be maintained in a manner that ensures patient areas are safe, clean, and comfortable while meeting the clinical and physical needs of the patients.
- B. The physical plant shall meet the structural standards provided in CCR, Title 24, as evidenced by the latest approval from State Licensing.
- C. The facility shall provide a safe, accessible, and secure outdoor area for patient use.
- D. Each behavioral health unit shall have at least one room specifically designated for the use of patient seclusion and/or restraints.
- E. The facility's plant shall have a fire clearance (42 CFR § 482.41).
- F. The facility's physical plant shall allow for individual indoor storage space for each patient.
- G. Telephones shall be available for patient use in locations and for periods of time that allow patient access and ensure confidential conversations.
- H. The patient bathrooms shall ensure the maximum amount of patient privacy and dignity while ensuring patient safety.
- I. The facility shall provide space for patients to receive visitors in an atmosphere that affords privacy but allows for patient safety.
- J. A facility treating minor patients shall ensure they are housed in a separate unit away from the adult population (WIC §§ 5585.55 and 5751.7).
- K. The facility shall provide adequate space and staff to ensure that all facility-based hearings can be conducted

without interruption, in an atmosphere that affords privacy and ensures confidentiality and safety.

- L. Patients' Rights posters shall be in visible and prominent places in the facility (WIC § 5325).

DOCUMENTATION AND TREATMENT GUIDELINES

The designated facility participates in quality improvement activities, including documentation, data collection, and quarterly reporting, using approved State-mandated forms, as specified by BHS.

A. Data Collection

1. Monthly denial of rights and seclusion and restraints data from contracted LPS facilities is submitted to BHS
2. Number of patients denied each specified type of right or placed in seclusion and/or restraint, number of days each patient was admitted to the facility, and number of days each patient was denied a specified type of right, or was in seclusion and/or restraint.
 1. Quarterly Report on Services Provided to Persons Detained in Jail Facilities
 - a) Number of persons who were evaluated and/or treated in inpatient services within a jail facility
 - b) Number of admissions to an LPS jail inpatient mental health program
 4. Quarterly Report on Involuntary Detentions - Number of persons either detained or admitted:
 - a) Detainments and Admissions for 72-hour evaluation and treatment
 - b) Certifications for 14-Day Intensive Treatment
 - c) Additional 14-Day Intensive Treatment for suicidal persons
 - d) Certifications for 30-Day Intensive Treatment
 - e) Number of 180-day Post-Certification Treatments
 - f) Conservatorships - Temporary and Permanent
 - g) Transferred Pursuant to Penal Code Section 4011.6.
 5. Electroconvulsive Therapy Treatments Administered – Quarterly Report
 - a) Number of patients receiving treatment
 - b) Total treatments given
 - c) Complications attributable to treatment
 - d) Total number of excessive treatments given
 - e) Requests for, and Review Committee decision on, excessive treatment
 6. Mental Health Rehabilitation Center (MHRC) license reports
 - a) Denial of Rights—County Summary
 - b) List of Facilities by type and bed capacity
 - c) Number of patients denied rights
 - d) Number of days each right was denied and number of days of seclusion/restraint
 - e) Total summary of days rights denied and total days of seclusions and restraints

- f) Total number of patient days
 - g) Percentage frequency of denial of rights
- B. The facility shall ensure that initial assessments of referred patients are completed regardless of ability to pay.
- C. Psychiatric assessments of voluntary and involuntary patients shall include documentation substantiating the need for current treatment and level of care and shall be completed within 24 hours by the attending practitioner.
- D. Authorized members of the professional staff who initiate involuntary detentions shall participate in the care and treatment of the patients for whom they initiate 72-hour holds (inclusive of participation in treatment planning), pursuant to WIC § 5150 and 9 CCR § 823.
- E. The facility shall ensure that patients are appropriately involved in planning their care and treatment, as evidenced by documentation of patient participation in treatment planning.
- F. The facility shall ensure that patients' medical problems are identified, addressed, and documented in treatment plans.
- G. The facility shall meet BHS requirements for application and referral of clients to petition for establishment of LPS conservatorships and/or the Community Assistance, Recovery, and Empowerment (CARE) Act.
- H. The facility shall ensure that the attending practitioners are present and testify at all legal hearings for which their attendance is required by the Court (e.g., writs, LPS conservatorship hearings, and medication capacity hearings), and that treating physicians meet all expectations related to communication with, and testimony in, San Diego Superior Court.
- I. The facility shall ensure that, upon discharge, patients receive appropriate referrals to community agencies and suitable placement, as evidenced by documentation in the Discharge and Aftercare Plans. Uninsured, non-Medi-Cal patients who need further psychiatric medication shall be discharged with prescriptions for psychiatric medications that are available through BHS uninsured formulary and consistent with the parameters for prescription of psychiatric medication.
- J. The facility shall have a mechanism to review medical records on an ongoing basis for completeness and timeliness of information and shall take action to improve the quality and timeliness of documentation that impacts the care of voluntary and involuntary patients.
- K. The facility shall establish and maintain a process for appropriately resolving complaints, grievances, and appeals.
- L. The facility's professional staff shall establish and maintain a mechanism for proctoring and conducting an ongoing peer review of the knowledge base and competencies of designated professional staff members on involuntary detention procedures and 5150s. Criteria and outcomes of monitoring shall be made available for review by the Director of BHS upon request.
- M. The facility notifies BHS of all critical incidents, including adverse drug reactions, suicide attempts and suicides, homicides, medication errors resulting in serious adverse outcomes, use of physical restraints,

deaths, sexual assaults, and serious physical injuries involving psychiatric patients by appropriately transmitted documents within the timeframe set forth in the Inpatient Operations Handbook.

- N. The facility shall establish and maintain a process for determining patient perception of the quality of the clinical treatment process and the satisfaction of individuals served. Data on patient perceptions and satisfaction shall be made available for review by the Director of BHS upon request.

II. DESIGNATION TO TAKE INDIVIDUALS INTO CUSTODY PURSUANT TO LPS ACT

GENERAL GUIDELINES RELATED TO DESIGNATED INPATIENT FACILITIES

- A. Facility administration shall maintain a current roster and current credential files of professional staff members who have been privileged and authorized to initiate 72-hour detentions. The foregoing shall be made available on request to representatives of BHS.
- B. Continuation of the designation status of the facility shall require that all professional staff of the facility comply with all applicable LPS requirements. These requirements include the limitation of involuntary detention to those individuals who meet LPS criteria and are taken into custody only by members of the professional staff with involuntary detention authority.
- C. The facility shall ensure that all designees, whenever exercising or otherwise communicating either orally or in writing about their designation authority or related services, clearly identify their facility affiliation and wear the mandated identification badge in face-to-face interactions.
- D. The facility shall ensure that the completed original 5150 detention form is present in the medical record of each involuntarily detained patient. A completed form shall contain, in legible fashion, the signatory's professional discipline, and the facility affiliation under whose authority the involuntary detention was initiated.
- E. The facility shall ensure that the involuntary detention authority granted to a member of the professional staff of the designated facility is exercised at that facility only and is in relation to the professional staff member's responsibilities at that facility. In instances where an evaluation for possible involuntary detention is conducted off the facility premises, the authorized professional staff member with mobile response responsibilities shall:
 - 1. Be an employee or a formal contractor of the designated facility (Exception: Designated Physicians).
 - 2. Dress and travel in a manner that does not inappropriately attract attention to the individual being assessed.
 - 3. Complete a face-to-face assessment of the client prior to initiating an involuntary detention for that client.

4. Conduct and document an assessment that considers the full range of available treatment modalities, sites, and providers, and results in the care that best meets the client's specific needs. Assessment of need is based upon condition, treatment needs, geography, and current fiscal and treatment relationships with providers. The care should be rendered without regard to profit or gain by the designee's parent facility.
5. Have available a comprehensive and current referral source list and be well versed in all relevant treatment resources in the client's area.
6. Honor the preference of the client and/or the parent of a minor, conservator, or legal guardian for the type and location of the desired treatment facility if administratively feasible and clinically appropriate.
7. Unless prohibited by specific circumstances, seek information from and involve the client's current providers of mental health care in order to support continuity of care.
8. Represent themselves to the public as affiliated with the facility from which they derive their designation authority.
9. Strongly consider the proximity of the designated facility to the patient's own community, family and support system. Alternatives to taking a patient to a more distant facility should be considered and documented on the off-site assessment form.
10. Ensure that proper interventions and/or treatment are provided to the client for whom they have initiated LPS evaluation until appropriate disposition is affected (e.g. one-to-one monitoring, removal of contraband.)
11. Give detainment advisements to each client in a language or modality that the client can understand, pursuant to WIC § 5157, inclusive of the name of the facility to which the client is being taken, and notification that the person is not under criminal arrest but is being taken for examination by mental health professionals.
12. Follow all statutory requirements regarding client confidentiality.
13. Maintain an accurate log of all requests for the facility staff's off-premises services. Such log shall be available for inspection by the Patients' Rights Office and/or other designees of the Director of BHS and shall include:
 - a) Date and time of both request and response
 - b) Referral source
 - c) Name of client
 - d) Time of intervention and departure
 - e) Completion of a written assessment of client, including consideration of less-restrictive alternatives
 - f) Services provided and/or referrals made

- g) Disposition of the client
 - h) Name of staff involved
 - i) A copy of the 72-hour hold if initiated
 - j) Source of payment
14. Take reasonable precautions to preserve and safeguard the patient's property, pursuant to WIC §§ 5156 and 5211.
 15. Initiate 72-hour holds only within the boundaries of San Diego County, unless special written designation authority or an exception has been granted by the County Mental Health Directors involved allowing for cross-county designation privileges.
 16. Initiate involuntary detentions only for persons who, based on the authorized staff member's professional assessment, are believed to be dangerous to self or others or gravely disabled because of a mental disorder.
 17. Abide by all provisions in the WIC, Division 5, and accompanying regulations, and Mental Health Services policies regarding treatment, evaluations, patients' rights, and due process.
 18. When the client does not meet criteria for involuntary detention, provide the client with information, referral to appropriate community services, and/or other intervention as appropriate to his/her circumstances.
 19. Report conditions of abuse or neglect at residential facilities, such as suspected or possible unsafe and unsanitary living conditions, involving elder or dependent adults and children, to the appropriate agencies per WIC § 15630(a)-(h).
- F. The facility shall have at least one privileged professional staff member, who can be a Qualified Medical Professional (QMP), with 5150 authority present within one hour for on-site assessment of individuals considered for involuntary detention and/or admission.
- G. The facility shall have the ability to safely detain an individual pending 5150 assessment for up to one hour on-site pending the arrival of an authorized professional staff member.

III. INITIAL FACILITY DESIGNATION

PROCEDURES

- A. The facility requesting designation notifies the Director of BHS who notifies his appointee, the LPS Designation Review Coordinator (LPS Coordinator) of BHS. The LPS Coordinator then sends an informational packet to the facility delineating the criteria and procedures for LPS designation, along with an application and agreement to be signed by the facility Director of BHS, which stipulates that the facility agrees to abide by all designation guidelines and criteria set forth by the County.
- B. Once the facility Medical and/or Administrative Director receives the packet from BHS and believes that the

facility meets the LPS designation guidelines, he or she submits the application and agreement to the LPS Coordinator and arranges for an on-site survey visit.

- C. Representatives of County of San Diego BHS, including Patients' Rights Advocates and BHS Quality Management staff, shall conduct an on-site review of the facility (including the physical plant, staffing, policies and procedures, and credentials files) for compliance with the LPS designation guidelines and criteria. If the facility is already accepting patients, the assessment also includes an examination of treatment charts selected by the representatives and voluntary interviews with selected patients and staff. The representatives also review mental health facility licensing reports, patient complaint logs and the facility's denial of rights, seclusion and restraint, involuntary holds reports, and grievance logs on file with BHS. At the time of the visit (or prior to the visit, if so requested), the facility provides the survey team with a copy of their current operating license, staffing plans by discipline, patient-to-staff ratios, Fire Marshal clearance, governing body and medical staff bylaws, Performance Improvement and Utilization Review Plans, a verification of 24-hour admitting capacity, type of staff and management (directly operated or by contract), treatment schedules, and program descriptions. At the time of the visit, the facility also provides the survey team with access to appropriate meeting minutes, manuals (Administrative, Nursing, Program, Safety/Risk Management), in-service records, and contracts/agreements related to off-site mobile response individuals and/or teams.
- D. If the facility's physical plant has not yet opened at the time of the on-site review, conditional LPS designation authority may still be granted based on physical plant, staffing, licensure, policies and procedures (inclusive of Bylaws, Manuals and Plans), and credentials evaluations. However, in this instance, reassessment shall be conducted three (3) months after commencement of the facility's operation and encompasses examination of treatment records, patient and staff interviews, in-service records, contracts with off-site mobile response individuals and/or teams, minutes, and logs and reports on file with the Patients' Rights Office.
- E. If the facility is found to be in compliance with the LPS guidelines and criteria, the LPS Coordinator shall submit a written report to the Director of BHS with the recommendation that the facility be designated.
- F. When the Director of BHS finds, based on all available information, that the facility meets all guidelines and criteria specified for LPS designation, the Director of BHS may, as delegate of the San Diego County Board of Supervisors, designate the facility for 5150 purposes. The Director of BHS shall relay this recommendation to DHCS.
- G. The Director of BHS or designee notifies the Facility Director in writing of the designation decision.
- H. The Director of BHS or designee notifies the Court Executive Officer of the LPS designation by sending the Certificate Letter signed by the BHS Director, the approval letter from DHCS and the facility procedural information related to 5250 hearings.
- I. If LPS Survey Team members find that a facility is not in compliance with LPS guidelines and criteria, they shall inform the facility and the Director of BHS and make specific recommendations for compliance. A return on-site visit is scheduled once the facility notifies the LPS Coordinator that the recommendations have been

implemented.

- J. If the LPS Survey Team determines that the facility is not in compliance with the LPS designation criteria and the facility disagrees, the facility may, if it chooses, present information and/or arguments directly to the Director of BHS.
- K. Prior to the facility's exercising its designation authority, all individuals involved in the involuntary detention process shall have made application for approval to initiate involuntary evaluation and detention (5150). The application shall be accompanied by a signed attestation by the professional person clinically in charge of the facility that applicant has received San Diego County-approved training on LPS statutes and County policies and procedures concerning involuntary detention, as well as information on patients' rights and achieved a passing score on the written examination.
- L. LPS facilities that change ownership shall be required to have a review within 6 months of change of ownership to ensure that designation will be continued. To facilitate transitions in ownership, the facility will retain a Conditional LPS status until the LPS review is completed.
- M. LPS facilities which change location shall be required to have a review within 6 months of change of location to ensure that designation will be continued.

LENGTH OF DESIGNATION

- A. Initial designation is provisional for six months but is revocable at any time should the facility fail to comply with the designation guidelines.
- B. The facility is monitored by the contracted Inpatient Patient Advocacy Program during the six months provisional period. If found to be in compliance, the facility is designated from the time of the LPS review, unless such designation is subsequently suspended or withdrawn.

IV. FACILITY PERIODIC REVIEW

Each San Diego County LPS site will be routinely reviewed during a three-year period to ensure that all LPS requirements continue to be met. County of San Diego Behavioral Health does not have a Redesignation Process per the December 6, 1994 (11), San Diego County Board of Supervisors resolution enabling each LPS facility to retain LPS designation barring exigent circumstances.

PROCEDURES

- A. The LPS Coordinator sends an information packet to each facility being reviewed in a single Fiscal Year, delineating the criteria and procedures for LPS review and requesting an on-site visit.
- B. The Facility Director and LPS Coordinator arrange for an on-site visit.
- C. Under the auspices of the Director of BHS, the LPS Designation Review Committee conducts a review of each designated facility to assess compliance with LPS designation guidelines and criteria. Such review may

encompass a tour of the patient units, survey of open and closed treatment charts selected by the reviewers, voluntary interviews with clients, review of facility vehicle for allowing clients to provide anonymous feedback, examination of policies, procedures, manuals, plans, minutes, and contracts, and discussion with facility staff. In preparation for the visit, the reviewers may examine: recommendations from the prior LPS designation survey(s); the facility's denial of rights, seclusion and restraint, 72-hour holds, minors' due process hearings, ECT administration (if any) monthly and quarterly data collection; Accreditation Surveys (TJC) and Health Facilities Licensing reports; and any other relevant reports on file with the Patients' Rights Office regarding the facility.

- D. The reviewers apprise facility staff of their findings orally at the conclusion of the visit and in writing via a preliminary draft of findings within one week after the conclusion of the visit. The preliminary draft cites specific areas of compliance and noncompliance and makes recommendations for remedial action where indicated. The facility has three months (or as otherwise directed) from the date the preliminary draft is sent to submit supporting evidence. After reviewing the supporting evidence that was submitted by the facility, Reviewers send a final report of findings. Reviewers may either make the recommendation for the facility's continued designation to the BHS Director or reviewers may also ask for a specific plan of correction to address areas of noncompliance, to be submitted within 30 days of report receipt or as otherwise directed.
- E. If the reviewers are unable to support continued designation, they may elect to conduct a repeat on-site visit upon their determination that sufficient time has elapsed for the facility to correct identified deficiencies. Gross violation(s) of clinical practice, patients' rights, and/or safety practices relevant to the class of persons for whom designation applies can result in temporary suspension and/or discontinuance of the designation.
- F. If the facility fails to correct identified deficiencies, the Director of BHS takes appropriate remedial action up to and including termination of the facility's designation.
- G. The facility is notified in writing of the above action. Temporary suspension of a designation or placement of the facility on conditional designation status is a departmental administrative action requiring no action by outside parties.

V. WITHDRAWAL OF DESIGNATION, CONDITIONAL DESIGNATION AND REINSTATEMENT OF DESIGNATION

CIRCUMSTANCES UNDER WHICH THE COUNTY OF SAN DIEGO, DIRECTOR OF BEHAVIORAL HEALTH SERVICES MAY WITHDRAW DESIGNATION OF A FACILITY

- A. Gross violation and/or ongoing violations of clinical practice, patients' rights, quality of care, and/or safety precautions relevant to the class of persons to whom designation applies.
- B. Failure to comply with the terms and ethical provisions of law and BHS policies regarding constitutional, statutory, regulatory and decisional law, including but not limited to WIC, Division 5; CCR, Titles 9 and 22; and

the Business and Professions Code, Section 650, concerning compensation for referrals.

- C. Repeated failure to verify and submit for authorization only fully qualified individuals; failure to assure that LPS designated staff are appropriately monitored and supervised; and/or that its representatives exercise the involuntary detention and treatment authority in accordance with established BHS guidelines and legal requirements.
- D. Failure to allow the Director of BHS or designees to review the facility for designation or complaint resolution processes, including access to specified patients, staff, and records to establish compliance with San Diego County LPS guidelines and regulations.
- E. Failure to correct circumstances within specified timelines that previously led to conditional designation.
- F. Failure to truthfully disclose the material support provided to members of the authorized professional staff concerning off-site evaluation and detention activities or to ensure the support is in accordance with all applicable designation regulations.
- G. Closure, loss of licensure, or loss of applicable facility accreditation.
- H. Designation of the facility may be withdrawn/cease if the facility has not detained patients on an involuntary basis pursuant to the WIC §§ 5150 and/or 5152 for a period of three years.
- I. When, in the judgment of the Director of BHS, withdrawal of designation is required by community needs.

**CIRCUMSTANCES UNDER WHICH THE COUNTY OF SAN DIEGO, DIRECTOR OF
BEHAVIORAL HEALTH SERVICES MAY PLACE A DESIGNATED FACILITY ON
CONDITIONAL DESIGNATION STATUS**

- A. Failure to submit a timely or acceptable corrective action plan as requested in writing for cited deficiencies.
- B. Failure to ensure that all rights guaranteed to mental health patients by statutes and regulations are adhered to, including proper initiation and implementation of rights to administrative and judicial reviews, hearings, and writs.
- C. Improper use of seclusion or restraint, including failure to routinely utilize preventive alternative interventions and/or to follow 9 CCR § 865.4, applicable provisions of CCR Title 22 (such as § 71545 for acute psychiatric hospitals and § 77103 for psychiatric health facilities), or Health and Safety Code, Division 1.5 (commencing with Section 1180-1180.6) requirements for seclusion and restraint orders, use, and monitoring.
- D. Occurrence of significant quality of care or safety issues or critical incidents requiring BHS investigation and prompt corrective action by the facility.
- E. Failure to meet documentation and treatment guidelines by established deadlines.
- F. Failure to notify BHS of an adverse event(s) or to submit reports as required by BHS within 30 days after end of reporting period.

- G. Failure to provide whatever mental health treatment, care, and referrals involuntarily detained persons require for the full period that they are held.
- H. Failure to notify BHS of any changes that may affect its conformance with the criteria for designation.

PROCEDURES FOLLOWING THE WITHDRAWAL OF THE LPS DESIGNATION OF A FACILITY

- A. Except as described below in respect to emergencies, the Director of BHS shall notify the facility of his or her intention not less than 30 days in advance of taking the action. The notification will specify the reasons for which the action is being taken.
- B. The facility may submit to the Director of BHS a written request for review within 14 days of receiving the notice of intention. In support of its written request, the facility may submit written documentation or other proof contradicting the specification made in the notice of intention. If the facility wishes to make an oral presentation or present witnesses to controvert the specifications in the notice of intention, its written request may also include a request for a meeting at which such oral presentation can be made.
- C. If a request for a meeting or an oral presentation is made, the meeting shall be held not less than five or more than ten days from the date on which the facility requested the review. In no event shall the meeting take place more than 25 days after the notice of intent to withdraw the designation was received by the facility.
- D. The meeting at which the facility makes its oral presentation shall be attended by the Director of BHS or designee and such other representatives as designated by the Director of BHS; the names of such representatives will be given in writing to the facility administrator. The meeting may be attended by the facility administrator and Chief Medical Officer and such others as they designate in writing to the Director of BHS. The facility may make oral presentations that are pertinent to the specifications contained in the notice of intent. A reasonable period of time, as determined by the Director of BHS or designee, shall be permitted for the facility's oral presentation.
- E. The Director of BHS shall consider all written, oral and other information submitted by the facility. The Director of BHS shall notify the facility in writing of his or her final decision not later than 29 days from the facility's receipt of the BHS notice of intention.

SUSPENSION OF A FACILITY'S LPS DESIGNATION

- A. If, in the judgement of the Director of BHS, an emergency or threat of harm to consumers exists, the authority of the facility to involuntarily detain or treat under the LPS Act or the approval of a designated facility's designation of an individual may be suspended.
- B. Such a suspension may be made while the notice of intention to apply for LPS designation is in process, as described above, or for such periods of time during which the Director of BHS judges the emergency or threat to exist.

- C. The facility may request a review immediately or within 14 days of receiving the written notice of emergency suspension, such review to be held within three working days from the date on which the facility requested the review, unless another mutually agreeable time, not to exceed 14 days from the date on which the facility requested the review, is set.

**PROCEDURES FOLLOWING AN LPS DESIGNATED FACILITY'S REQUEST TO OPT
OUT VOLUNTARILY FROM LPS DESIGNATION**

- A. The LPS designated facility shall notify the Director of BHS of their intention not less than 60 days in advance of taking the action. The notification will specify the reasons for which the action is being taken.
- B. The Director of BHS will review the request within 15 days and will notify the facility that he or she has received the request.
- C. The Director of BHS shall consider all written, oral and other information submitted by the facility. The Director of BHS shall notify the facility in writing of his or her final decision not later than 29 days from the Director's receipt of the notice of intention.