

Due Process Rights

The law allows for a person, who is being involuntarily detained on a “5150 hold” and does not agree with this detention, to request a formal court hearing called a Writ of Habeas Corpus. A person, or someone acting on behalf of the person, may request a Writ of Habeas Corpus hearing at any time during the detention by making this request known to any member of the treatment staff or by contacting the Patients’ Rights Office.

If a person is detained on a “5150 hold” longer than 72-hours, the law requires an informal probable cause hearing called a Certification Review Hearing to automatically take place. This hearing will occur within 7-days of when the detention began.

Can I be detained longer than 72-hours?

LPS law allows for a treatment profession of a county-designated LPS facility to detain a person for an additional period of time for intensive psychiatric treatment, if the person meets criteria and is unwilling or unable to accept voluntary treatment.

If a person is placed on an additional LPS “hold”, the person will have additional due process rights, which may include a Writ of Habeas Corpus hearing and/or a Certification Review Hearing.

How can I learn more?

To learn more about LPS and California Mental Health Patients’ Rights you may contact your local county patients’ rights office or visit the following websites:

Handbook: Rights for Individuals In Mental Health Facilities: [DHCS Handbook English.pdf](#)

San Bernardino County Department of Behavioral Health (DBH):
<https://wp.sbcounty.gov/dbh/>

California Office of Patients’ Rights: <https://www.disabilityrightsca.org/what-we-do/programs/california-office-of-patients-rights-copr>

California Department of Health Care Services (DHCS):
<https://www.dhcs.ca.gov/services/Pages/Office-of-Patients-Rights.aspx>

San Bernardino County Office of Patients’ Rights

Toll Free: (800) 440-2391
Local: (909) 421-4657
7-1-1 for TTY users
Fax: (909) 421-9258

DBHPatientRightsOffi@dbh.sbcounty.gov

County of San Bernardino Health Services
850 E. Foothill Blvd.,
Rialto, CA 92376



Behavioral Health

Office of Patients’ Rights



What do we do?

- ◆ Advocate for patients’ expressed wishes
- ◆ Investigate patient complaints regarding patients’ rights concerns in our County-designated LPS facilities
- ◆ Monitor County-designated LPS facilities
- ◆ Provide education and training regarding patients’ rights and LPS statute
- ◆ Represent clients at Certification Review Hearing
- ◆ Gather, review, and report data to the California Office of Patients’ Rights on Denial of Rights, electroconvulsive therapy (ECT), restraint, seclusion and involuntary treatment

What is LPS?

LPS stands for Lanterman-Petris-Short Act, which outlines the laws that govern involuntary psychiatric services for adults. Some of these statutes also apply to minors (age 17 and under). These laws can be located in the Welfare and Institution Code (WIC) Section 5000-5556.

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Mental Health Patients' Rights

Mental health patients have the same legal rights guaranteed to everyone by the Constitution and Laws of the United States and California.

These rights include, but are not limited to, the following:

- Dignity, privacy and humane care
- To be free from harm including unnecessary or excessive physical restraint, medication, isolation, abuse and neglect
- To receive information about treatment and to participate in planning treatment
- To consent or refuse to consent to treatment, unless there is a legally- defined emergency or a legal determination of incapacity
- To client-centered services designed to meet your individual goals, diverse needs, concerns, strengths, motivations and disabilities
- To treatment services which increase the ability to be more independent
- To prompt medical care and treatment
- To services and information in a language that is understood and that is sensitive to cultural diversity and special needs
- To keep and spend a reasonable sum of personal finances for small purchases
- To keep and use one's own personal possessions including toiletries and clothing

Mental Health Patients' Rights Continued...

- To have access to individual storage space for private use
- To have reasonable access to telephones— both to make and to receive confidential calls or have such calls made on one's behalf
- To have access to letter-writing material and stamps —to mail and to receive unopened correspondence(s)
- To social interaction, participation in community activities, physical exercise and recreational opportunities
- To see visitors every day, if desired
- To wear one's own clothing, if desired
- To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services
- To religious freedom and practice
- To participate in appropriate programs of public education
- To be free from hazardous procedures
- And, all other rights under federal or state law

A person has the right to make a voluntary application at any time to any public or private agency or practitioner for mental health services, either by direct application in person, or by referral from any other public or private agency or practitioner.

What is a 5150?

The Welfare and Institutions Code (WIC) Section 5150 is a legal hold imposed on a person who is believed to be a danger to self, a danger to others, and/or gravely disabled due to a mental disorder.

A person placed on a "5150 hold" will be involuntarily detained for psychiatric evaluation, assessment, crisis intervention or placement in an LPS facility for evaluation and/or treatment up-to 72-hours.

Only law enforcement officers and treatment professionals designated by the County may, upon probable cause, take or cause a person to be taken into custody for a period of up-to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a County-designated LPS facility for evaluation and/or treatment.

What can I do if I am detained under a 5150?

A person who is detained under a "5150 hold" may be detained for up-to 72-hours. A release from this detention may be decided by a treatment professional at any time during detention.

A person has the **right to due process**, which is a legal process to challenge their involuntary detention. LPS due process rights include formal court hearings and an informal probable cause hearings.