

# The legislative intent of the 1967 Lanterman-Petris-Short (LPS) Act is:

- To end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to eliminate legal disabilities;
- To provide prompt evaluation and treatment of persons with serious mental disorders or impaired by chronic alcoholism;
- To guarantee and protect public safety;
- To safeguard individual rights through judicial review;
- Continued on next slide

# The legislative intent of the 1967 Lanterman-Petris-Short (LPS) Act is:

- To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;
- To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures
- To protect mentally disordered persons and developmentally disabled persons from criminal acts.

# The LPS Act is encompassed in Welfare and Institutions Code (WIC) § 5000, et seq.

- Within § 5000 there are a number of involuntary psychiatric detentions, permitting the involuntary detention of individuals with psychiatric disorders.
  - Most of these holds were instituted with the implementation of the LPS Act:
    - WIC § 5150/5151/5152: 72-hour hold
    - WIC § 5250: 14-day holds
    - WIC § 5260: second 14-day hold for dangerousness to self
    - WIC § 5300: 180-day hold for imminent dangerousness to others
    - WIC § 5352.1: temporary conservatorship
    - WIC § 5350: permanent conservatorship

# WIC § 5270

While most of these holds were instituted as a **requirement** of the LPS act, it was left to each individual county to determine whether to authorize § 5270.

# Legislative Intent of § 5270

The intention of § 5270 30-day holds is to reduce the number of gravely disabled persons for whom conservatorship petitions are filed and who are placed under the extensive powers and authority of a temporary conservator simply to obtain an additional period of treatment without the belief that a conservator is actually needed and without the intention of proceeding to trial on the conservatorship petition.

# Intent of § 5270

The intention is that this change will substantially reduce the number of conservatorship petitions filed and temporary conservatorships granted which do not result in either a trial or a conservatorship, and prevent the significant restrictions on individuals' rights which result when a person is placed under the authority of a temporary conservatorship.

# Authorization of § 5270 in San Diego County

On May 6, 2014,  
the San Diego County Board of Supervisors  
authorized § 5270 by resolution.

# Implementation of § 5270 in San Diego County

On July 1, 2014,  
§ 5270 will be implemented in  
San Diego County.



# Purpose of § 5270

To provide continued involuntary intensive treatment for a patient who is gravely disabled following the conclusion of a 14-day certification by initiating a 5270 (30-day hold) according to LPS and San Diego County Board of Supervisor requirements in a designated facility for treating involuntary patients.

Upon completion of a 5250 14-day period of intensive treatment a patient may be certified for an additional period of not greater than thirty (30) days of intensive treatment under **both** of the following conditions:

- The professional staff of the agency or facility treating the patient has found that the patient remains **gravely disabled** as a result of a mental disorder or impairment by chronic alcoholism.
- The person has been advised of the need for continued treatment but is unwilling or unable to accept intensive treatment on a voluntary basis (5270.15).

# Signatory Requirements

The signatory requirements to initiate a § 5270 hold are the same as the signatory requirements for a § 5250 14-day hold.

# Signatory Requirements:

## First Signature

- When a 5270 is initiated as a new hold, it must be signed by the professional person in charge of the facility providing the intensive treatment, and by (if possible) a board-qualified psychiatrist, or a licensed psychologist who has a doctoral degree in psychology and at least five years of post graduate experience in the diagnosis and treatment of emotional and mental disorders (5270.20).
- The physician or psychologist who signs must have participated in the evaluation (5270.20).

## **Signatory Requirements: Second Signature**

If the professional person in charge is the physician who performed the medical evaluation and finding, or a psychologist, the second person to sign may be another physician or psychologist, unless another one is not available, in which case a licensed clinical social worker or a registered nurse who participated in the evaluation and finding shall sign the notice of certification (5270.15).

# Right to a Writ of Habeas Corpus

- Documentation on the 5270 must include either:
  - “Patient Requests Writ” – followed by signature of licensed staff, **or**:
  - “Patient Does Not Request Writ” – followed by signature of licensed staff.
- If a patient requests a writ, the patient must be provided with a Petition for Writ of Habeas Corpus, and facility staff must assist the patient with preparation of the form, if assistance is needed or requested.
  - The completed form should be faxed to the Public Defender at 619-338-4847.

# Who gets a copy of the § 5270 Notice of Certification? (Original or Copy has the Same Effect)

- The person certified
- The court (the Counselor in Mental Health); confidential fax to 619-450-7799
- The person's attorney (if any)
- The Public Defender (if any); confidential fax to 619-338-4847
- County Counsel; confidential fax to 619-531-6005
- The facility providing intensive treatment
- JFS Patient Advocacy; confidential fax: 619-282-4885

# Certification Review Hearing

Any person certified for an additional 30 days pursuant to § 5270 shall be provided with a Certification Review Hearing unless the patient requested a Judicial Review (Writ of Habeas Corpus).



# Certification Review Hearing

The person delivering the copy of the notice of certification to the person shall, at the time of delivery, inform the patient being certified that he or she is entitled to a certification review hearing to be held within four (4) days of the date on which the certification is filed or they may request a judicial review (Writ of Habeas Corpus).

# Certification Review Hearing

The patient being certified shall be informed of his or her rights with respect to the hearing, including the right to the assistance of another person to prepare for the hearing or to answer questions and concerns regarding his or her involuntary detention or both.

# Certification Review Hearing

- The person being certified is entitled to a certification review hearing within four (4) days of the date certified.
- The certification review hearing will be held at the LPS-designated facility where the person being certified is receiving intensive treatment.
- Representation for the person being certified will be provided by the Patient Advocate, unless other arrangements are made by the person being certified.

# Length of § 5270 Certification

A certification will be for no more than thirty (30) days of intensive treatment and shall terminate only as soon as the psychiatrist directly responsible for the patient's treatment believes, as a result of the psychiatrist's personal observations, that the patient no longer meets the criteria for the certification or is prepared to remain in treatment on a voluntary basis.

# Civil Liability


Any individual who is knowingly and willfully responsible for detaining a person for more than 30 days in violation of the provisions of § 5270.35 is liable to that person in civil damages.

# Maximum Length of Detention

Once any involuntary detention has been initiated, a patient may not be detained more than a maximum of 47 days pursuant to § 5150 (3 days), § 5250 (14 days) and § 5270 (30 days) regardless of the number of days the patient may have been on voluntary status between the initiation of the holds (§ 5258).

# Termination of § 5270 Hold

- Termination of the § 5270 may only be determined by the attending Psychiatrist or the Psychiatric Medical Director of the Facility.
- As soon as the Psychiatrist who is directly responsible for the care of the patient believes, based on personal observation, that the patient no longer meets the criteria for the certification, or is prepared to accept voluntary treatment, the attending Psychiatrist must release the patient from the § 5270.



An original or copy of the 5270  
remains with the patient upon transfer.

San Diego County MHP has determined  
that a copy has the same effect as the original.



# Documentation

- The Psychiatrist or Psychologist shall enter their findings in the patient's medical record which will include their findings from their review for the continuation of the § 5270.
- The need for continuation of the certification will be documented by the treating psychiatrist in the patient's record at least every ten (10) days to establish that the patient continues to meet the criteria for certification as stated in § 5270.15.

# Additional Riese (Capacity) Hearing

- In order to administer antipsychotic medication involuntarily to a patient who is subject to § 5270, a Riese (capacity) hearing must be held to determine whether the patient has the capacity to consent to or refuse medication.
- Only a patient who has been determined to lack capacity at a Riese hearing may be medicated involuntarily (absent a temporary emergent condition, in which the emergency has been clearly documented).
- Even if a patient has already had a Riese hearing during a § 5150 (72-hour hold) or a § 5250 (14-day hold), a new Riese hearing must be held upon the initiation of the § 5270, if the intention is to continue to medicate the patient involuntarily.

## Legal Status Change to Temporary Conservatorship: Patient who is on a 14-day Hold (§ 5250)

- If it is determined that an involuntary patient who is on a 14-day hold (§ 5250) is likely to qualify for the appointment of a conservator, the conservatorship referral shall be made to the Public Conservator's Office by close of business on the 9th (ninth) day of the 14-day hold to allow time to meet legal noticing requirements.
  - Conservator's office confidential fax line: 858-495-5127

## Legal Status Change to Temporary Conservatorship: Patient who is on a 30-day Hold (§ 5270)

- If it is determined that an involuntary patient who is on a 30-day hold (§ 5270) is likely to qualify for the appointment of a conservator, the conservatorship referral shall be made to the Public Conservator's Office by close of business on the 5th (fifth) day of the 30-day hold to allow time to meet legal noticing requirements.
- Conservator's office confidential fax line: 858-495-5127

## The § 5270 30-Day Timeline Runs Concurrent to the Temporary Conservatorship Timeline

- If a 5270 is converted to a temporary conservatorship, the timelines run concurrently for the 30-day period.
- Any person held involuntarily using any combination of 5270 and temporary conservatorship shall not be held for more than a total of 30 days.