

# Patient Advocacy Program

## Weapons Restrictions in the Behavioral Health World

### Involuntary Patients

- **§8102** allows law enforcement to confiscate any weapons from a person who is detained in the context of a mental health hold. Law enforcement has 30 days (60 days with good cause) from the patient's release from the hospital to petition to destroy the weapon(s). This only applies to weapons confiscated. **PROHIBITION ENDS:** No ongoing weapons prohibition.
- **§8103(e)(1)** applies to patients on LPS conservatorship in a home, LPS facility, or a Board and Care. It states that those on conservatorship shall not possess, control, purchase, or receive any deadly weapons while on conservatorship. **PROHIBITION ENDS:** When conservatorship ends.
- **§8103(f)(1)** applies to any patient who is admitted involuntarily under danger to self or danger to others under the initial 72-hour. A new weapons prohibition begins every admit. **PROHIBITION ENDS:** After 5 years.
- **UPDATED FOR 2020: §8103(f)(1)(b)** attaches a lifetime weapons prohibition for anyone admitted to a behavioral health facility more than one time in one year due to danger to self or others. An appeal process is available for this every 5 years following the admission.
- **§8103(g)(1)** applies to any patient who is further certified under a 14-day hold, a second 14-day hold, or a 30-day hold under any of the three criteria. **PROHIBITION ENDS:** After 5 years.

### Voluntary Patients

- **§8100(a)** states that a voluntary patient may not possess, control, purchase, or receive any deadly weapons while receiving treatment in an inpatient facility if they are certified as danger to self or danger to others. **PROHIBITION ENDS:** Upon discharge from the facility.
- **§8100(b)(1)** states that if Tarasoff applies, a voluntary patient shall not possess, control, purchase, or receive any deadly weapons, and a 5-year prohibition applies. The patient's psychotherapist must report this to law enforcement, who reports to the Department of Justice (DOJ). **PROHIBITION ENDS:** After 5 years.

### Federal Regulation

- **27 CFR §178.32** is currently interpreted by United States DOJ to attach a lifetime weapons prohibition to a patient who has a certification review hearing and is held.

Unless specified otherwise, all code sections are taken from the California Welfare and Institutions Code §§ 8100–8103.

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