

# Detention of Patient With Psychiatric Emergency in a Nondesignated Health Facility

(Health and Safety Code Section 1799.111)

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A licensed general acute care or psychiatric hospital (that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code), licensed professional staff of those hospitals, and physicians, providing emergency medical services in any department of those hospitals will not be held civilly or criminally liable for detaining a patient if all of the following conditions exist during the detention.

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Name of Patient: \_\_\_\_\_

1. The law requires probable cause for detaining the patient/believing the patient is, as a result of a mental disorder, a danger to self or others or gravely disabled. Describe the patient's behavior and/or statements, and circumstances under which the patient was detained (use direct quotes from the patient, law enforcement officers, and/or others when appropriate).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Based upon the above information, I believe that the patient named above cannot be safely released from the hospital because he or she is, as a result of a mental disorder, one or more of the following:

- A danger to self
- A danger to others
- Gravely disabled (for purposes of a detention under Health and Safety Code Section 1799.111, "**gravely disabled**" means an inability of the patient to provide for his or her basic personal needs for food, clothing, or shelter)

Signature of treating physician and surgeon (or clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Health and Safety Code Section 1316.5\*)

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM / PM

(over)

The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional must make and document repeated unsuccessful efforts to find appropriate mental health treatment for the detained patient. Required telephone calls or other contacts must commence at the earliest possible time when the treating physician and surgeon has determined the time at which the patient will be medically stable for transfer. The hospital may not wait until after the time when the patient becomes medically stable for transfer to start making these contacts. Document efforts to find appropriate mental health treatment for the patient:

Date/Time	Person/Facility Contacted	Results of Contact:
_____	_____	_____
_____	_____	_____
_____	_____	_____

The patient may not be detained beyond 24 hours. Date and time patient first detained: \_\_\_\_\_

If the patient is detained beyond eight hours, but less than 24 hours, both of the following additional conditions must be met:

1. A discharge or transfer for appropriate evaluation or treatment for the patient has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.

Describe the care, observation, or treatment the hospital is providing in the lines below or in the medical record.

\_\_\_\_\_  
\_\_\_\_\_

2. The patient named above continues to be, as a result of a mental disorder, one or more of the following:

- A danger to self
- A danger to others
- Gravely disabled (for purposes of a detention under Health and Safety Code Section 1799.111, **“gravely disabled”** means an inability of the patient to provide for his or her basic personal needs for food, clothing, or shelter)

Signature of treating physician and surgeon (or clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Health and Safety Code Section 1316.5\*)

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM / PM

To receive immunity from civil or criminal liability for any actions of the patient after release, all of the following conditions must exist during the detention:

1. The patient was not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.
2. The release from the hospital is authorized by a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, who determines, based on a face-to-face examination of the patient detained, that the patient does not present a danger to himself or herself or others and is not gravely disabled. In order for this paragraph to apply to a clinical psychologist, the clinical psychologist must have a collaborative treatment relationship with the physician and surgeon. The clinical psychologist may authorize the release of the patient from the detention, but only after he or she has consulted with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a patient subject to the detention, the detention must be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and surgeon and the clinical psychologist must enter their findings, concerns, or objections in the patient's medical record.

**NOTE:** A patient detained under this law must be credited for the time detained, up to 24 hours, in the event he or she is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code in a designated facility.

\*Health and Safety Code Section 1316.5 states that state owned and operated health facilities that offer services within the scope of practice of a psychologist must establish rules and procedures for consideration of an application for medical staff membership and clinical privileges submitted by a clinical psychologist. Private health facilities may enable the appointment of clinical psychologists on such terms and conditions as the facility may establish. If a particular service is offered by a health facility which permits clinical psychologists on its medical staff which both physicians and clinical psychologists are authorized by law to perform, such service may be performed by either, without discrimination.

Reference: Health and Safety Code Sections 1316.5 and 1799.111

