



# New Laws Regarding Mental Health Patients, Part 1

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# New Laws – Mental Health Issues

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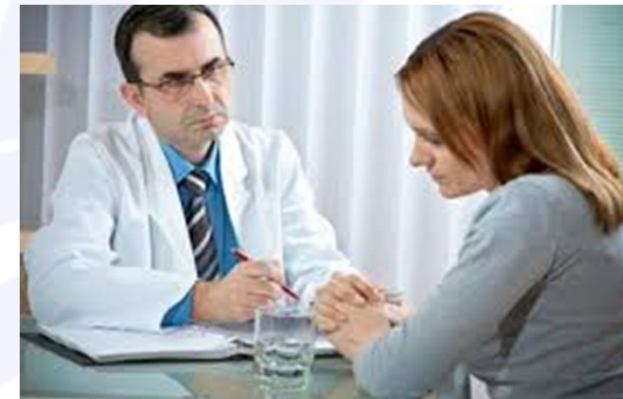
- Maternal mental health
- 5150: weapons prohibitions, application form, forced holds, serial holds, myths examined
- “Denial of Rights” – when do “rights” attach?
- Imbedded PET teams
- Ligature risk, telepsychiatry and looking to the future



## AB 2193: Maternal Mental Health - Screening

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- **Health & Safety Code 123640** (new)  
By July 1, 2019, a licensed health care practitioner who provides prenatal or postpartum care for a patient shall ensure that the mother is offered screening, or is appropriately screened, for maternal mental health conditions
- **Health & Safety Code 1367.625** (new) – By July 1, 2019, a healthcare service plan shall develop, consistent with sound clinical principles and practices, a maternal mental health program





## AB 2193: Maternal Mental Health – Screening (cont.)



### Exception

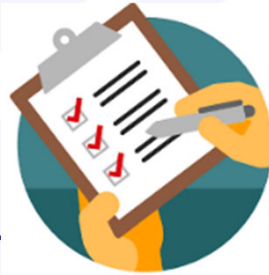
- Requirement does not apply to licensed health care practitioner when providing emergency services or care

### Definitions

- “Maternal mental health condition” means a mental health condition that occurs during pregnancy or during the postpartum period, and includes postpartum depression
- “Health care practitioner” includes physician, naturopathic doctor, NP, PA, nurse midwife or midwife licensed under Div. 2 of B&P Code or an initiative act referred to in that division, acting within his or her scope of practice



## AB 2193 – “To Do’s”



- ❑ Make sure your providers (doctors, NPs, PAs and midwives) know about this new law and their responsibilities to screen or offer screening -- ACOG recommends **Edinburgh Post Natal Depression Scale (EPDS)** –see also **Mass. Child Psych. Access Program for Moms (MCPAP)**
- ❑ Consider adding a medical record prompt that reminds OB providers of this obligation to screen or offer screening, especially if patient is “new” to the provider and has not been receiving pre-natal care
  - CDC: 25% of teen mothers receive “no” or “late” prenatal care



## AB 3032: Maternal Mental Health – Education and Information

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- **Article 4.2, Health and Safety Code § 123615 et seq.** (new): “Maternal Mental Health Conditions Education, Early Diagnosis, and Treatment Act”
- Requires general acute care and special hospitals (defined in H&S 1250(a) and (f)) with perinatal units to develop and implement by *January 1, 2020* a program to provide *education and information* to *appropriate healthcare professionals* and to *patients* about maternal mental health conditions

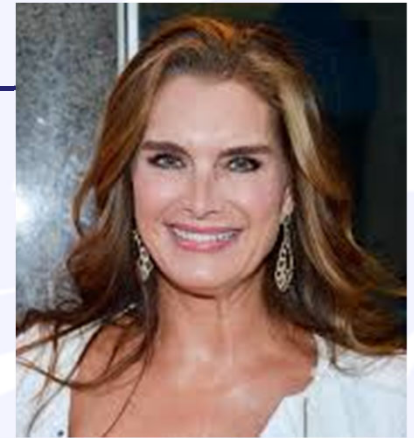




## AB 3032: Maternal Mental Health Education – Stated Reasons for New Law

**H&S 123615.5**: The Legislature hereby finds and declares all of the following:

- (a) Maternal depression is a common complication of pregnancy. Maternal mental health disorders encompass a range of mental health conditions, such as *depression, anxiety, and postpartum psychosis*
- (b) Maternal mental health conditions affect *one in five women* during or after pregnancy, but *all women are at risk* of suffering from maternal mental health conditions
- (c) Untreated maternal mental health conditions significantly and negatively impact the short- and long-term health and wellbeing of affected women and their children





## AB 3032: Reasons (cont.)



- (d) Untreated maternal mental health conditions cause adverse birth outcomes, impaired maternal-infant bonding, poor infant growth, childhood emotional and behavioral problems, and significant medical and economic costs, estimated to be \$22,500 per mother
- (e) Lack of understanding and social stigma of mental health conditions prevent women and families from understanding the signs, symptoms, and risks involved with maternal mental health conditions and disproportionately affect women who lack access to social support networks





## AB 3032: Reasons (cont.)

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(f) It is the intent of the Legislature to *raise awareness of the risk factors, signs, symptoms, and treatment options* for maternal mental health conditions among pregnant women and their families, the general public, primary health care providers, and health care providers who care for pregnant women, postpartum women, and newborn infants





## AB 3032: Maternal Mental Health Education – Definitions

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- “maternal mental health condition” means a mental health condition that occurs during pregnancy or during the postpartum period and includes but is not limited to, postpartum depression (same as definition in mental health screening law, above)
- “perinatal unit” is a maternity and newborn service of a hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment and supplies

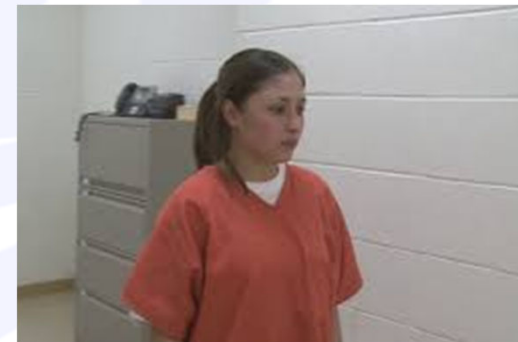


Note: This risk is recognized in correctional care (jail health) – assessment is part of med intake screening for certain inmates

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- Title 15, CCR, section 1207.5 - An additional mental health screening will be performed, according to written procedures, on women who have given birth within the past year and are charged with murder or attempted murder of their infants. Such screening will be performed at intake and if the assessment indicates postpartum psychosis a referral for further evaluation will be made.

- *Authority cited: Section 6030, Penal Code. Reference: Section. 6030, Penal Code.*





## AB 3032: Education – “To Do’s” (This Year)

- Before December 31, *develop and implement*, in collaboration with your medical staff, a program to provide education and information about maternal mental health conditions to “appropriate health care professionals” and “post-partum women and their families”
  - Who will provide the education/information?
  - How will it be provided? (classroom? e-learning? pamphlet or brochure?)
  - When will education/information be offered, and how often?
  - Who will document and track that it is done?





## AB 3032: “To Do’s” – Provider/Staff Training

- Which staff will you train? Law instructs you to include “primary health care providers and health care providers who care for pregnant women, postpartum women, and newborn infants” (H&S 123615.5 (f))
  - Physicians - OBs, family practice, hospitalists, others who care for these women
  - Allied health professionals: PAs, NPs, midwives
  - “Hospital employees regularly assigned to work in the perinatal unit, including, as appropriate, registered nurses and social workers”





## AB 3032: “To Do’s” – Patient Education

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- H&S 123617 – patient education/information must also be developed for “postpartum women and families”
- Program must include information/education about:
  - Maternal mental health conditions
  - Post-hospital treatment options
  - Community resources
  - Any other service the hospital determines should be included to provide optimal patient care





## AB 3032: “To Do’s” – Patient Education (cont.)

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- How will you provide education and information for “postpartum women and families” ?
  - Brochure? In-person conversation? Classroom? Online?
  - How will you define “families”?
  - Who will do this? Nursing staff? Medical staff?
  - How will you document it?
  - What if it isn’t provided, who will follow up?





## AB 1968: Weapons Prohibitions – Applied to Certain Mental Health Patients

- Amends/replaces **Welfare & Institutions Code 8103**
- Effective January 1, 2020: CA will impose a **lifetime ban** on gun ownership\* for those involuntarily admitted (W&I Code 5151) into a locked designated LPS facility as danger to self or danger to others after having already been admitted one or more times during the preceding year (365-day period of time)



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\*“... shall not purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control a firearm or other deadly weapon...”







# AB 1968 – Weapons Prohibitions (cont.)

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- Prior to or concurrent with discharge, patients must be given information about the prohibition, and about their right to petition a court for a hearing regarding lifting the ban
- Facility must provide copy of the most recent DOJ *“Patient Notification of Firearm Prohibition and Right to Hearing Form”* to the patient
- DOJ must update the form and distribute to facilities by January 1, 2020

STATE OF CALIFORNIA BOF 4009C (Rev. 09/2016)	BUREAU OF FIREARMS REQUEST FOR HEARING FOR RELIEF FROM FIREARMS PROHIBITION	DEPARTMENT OF JUSTICE PAGE 1 of 2
		
Upon or after discharge from a mental health facility, any person subject to firearms prohibitions pursuant to Welfare and Institutions Code section 8103, subdivision (f)(1), may request a hearing from the superior court of his or her county of residence to determine whether his or her right(s) to own, possess, control, receive, or purchase firearms will be restored by court order. The court shall set a hearing date within 30 days of receipt of this request.		FOR COURT USE ONLY
TO: _____ COUNTY SUPERIOR COURT. <small>County of Residence</small>		CASE NUMBER: _____



## AB 1968 – Weapons Prohibitions (cont.)

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- New law says that the facility **shall NOT** submit the form on behalf of the person subject to this subdivision
- Note: current law, still in effect through 2019, *requires the facility to forward the form to the superior court on behalf of the patient* if the patient requests a hearing at the time of discharge, unless patient states that he or she wants to submit the form to the superior court



## AB 1968 – Weapons Prohibitions (cont.)

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- Amended language in W&I 8103 says that the form requesting a court hearing “shall include an authorization for the release of the person’s mental health records, upon request, to the appropriate court...”
  - *Note the HIPAA prohibition against “compound authorizations” at 45 CFR 164.508(b)(3)*
  - *Hopefully the authorization will be “separate” from the petition when the DOJ “updates” their form ...*



## AB 2099: 5150 Application Form **Copy = Original**

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- A **copy** of the W&I 5150 written application form **SHALL be treated as an original!!**
- Added to the 5150 statute to dispel the myth (never the law!) that ambulance drivers or LPS-designated facilities needed the “wet ink original” in order to act (e.g., some facilities “required” it, and used it as an excuse to turn away the patient)
- Insistence on the “original” would now violate the law



# 5150 Application – New Form (06/18)

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## New 5150 Application Form

- [www.dhcs.ca.gov](http://www.dhcs.ca.gov); click on “Forms, Laws & Publications” - DHCS 1801 (06/18)
- Form now has space to document:
  - ✓ Historical course of the person’s mental disorder
  - ✓ Information gleaned from others that supports “probable cause” determination – reflects W&I 5150.05, the law that requires third-party relevant info to be considered



## AB 2983: Voluntary Patients and Psychiatric Holds

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- Amends Health and Safety Code 1317 - General acute care hospitals or acute psychiatric hospitals cannot insist, as a condition of admission or acceptance of a transfer, that a patient *voluntarily seeking mental health care* be first placed on a 5150 involuntary hold





## AB 2983: Voluntary Mental Health Care (cont.)

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- The problem of insisting that a person be put on a hold, even though he or she voluntarily agrees to a transfer or to the inpatient admission for psychiatric care, seems to have increased over the years, oftentimes NOT for patient care-related reasons:
  - Insurance plans have reportedly refused to pay for “voluntary” inpatient mental health care (“we only pay for emergency care, and it’s not an emergency if the person is willing to receive treatment voluntarily!”)
  - Ambulance drivers have stated they “feel safer” if person is on a hold, and won’t transport unless a hold is placed





## AB 2983: Voluntary Mental Health Care (cont.)

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- Forcing the hold for these reasons adds to the stigma that the individual faces (in and out of the system), and also often burdens the patient with additional legal, social, and treatment consequences
- It also can harm the formation of a good therapeutic relationship, leading to less than optimal outcomes
- AND, it has ALWAYS violated the LPS Act principles of “least restrictive means” (W&I 5150 and 5151)





Questions?





Thank You

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