

The Lanterman-Petris-Short (LPS) Act: Myths, Mysteries, and Misunderstandings

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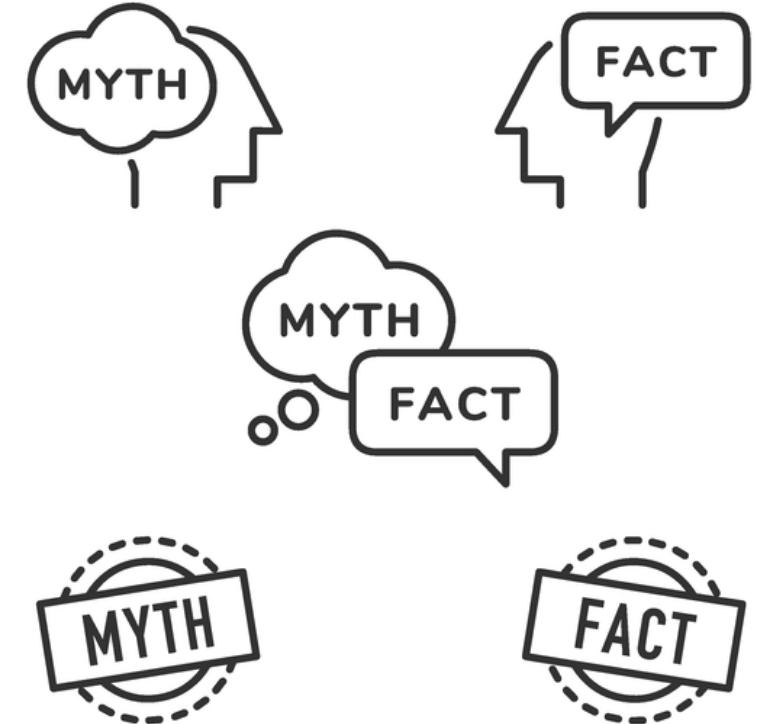
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Disclaimers

- This presentation is solely for **educational purposes** and the matters presented herein do not constitute legal advice with respect to your particular situation.
- Attendees should consult with their own legal counsel and/or risk management for advice and guidance.

Our Ambitious Agenda

- **WIC § 5150** – myths related to the involuntary hold process
- **EMTALA** – mysteries about medical clearance and beyond
- **AB 2275** – misunderstandings after 5150
- **Other Concerns and New Laws** – where clarity would help



Welfare & Institutions Code § 5150

WIC § 5150 – myths



- **Myth:** Confidentiality enjoys a 24 hour “pause” during a §5150 hold
 - Nope – the usual rules apply when talking with other treating providers, law enforcement, family and friends
 - There is no privacy exception described as: “if it’s in the patient’s ‘best interest’ you can use or disclose their PHI”
- **Myth:** If the form is not filled out perfectly the hold must be lifted
 - Nope – that is not stated anywhere in the law
- **Myth:** Only the person who placed the hold can lift the hold
 - Nope – that is not stated anywhere in the law

WIC § 5150 – Myths



- **Myth:** Patients will be in overall good health, and the medical clearance step is merely a formality
 - Not true – many of our patients have superseding medical emergencies, or untreated chronic conditions that must be treated first
- **Myth:** If the patient needs physical healthcare, that care can be forced if the patient is on a hold (or placed on a hold by the physician)
 - Nope – there is no such thing as a “medical hold” in the law

WIC § 5150 – Myths (cont.)



- **Myth:** The law requires law enforcement to help transport patients who do not want to voluntarily be transported
 - Nope – the law does not say that
- **Myth:** If a patient refuses to cooperate, the law says the hold must be lifted
 - No – the law does not say any thing like that at all

WIC § 5150 – Myths and Misunderstandings



- **Myth:** If you put someone on a hold in the field and then cannot safely transport them, just leave them where they are and document; this can shift liability to law enforcement
 - Um, no

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EMTALA & Involuntary Holds

Overarching Misunderstanding...

EMTALA and California's involuntary hold laws may be in **separate, siloed systems** but often overlap.



EMTALA – Myths



- **Myth:** Involuntary status under 5150 means EMTALA no longer applies
- **Myth:** A hospital can avoid EMTALA duties by calling a County mobile crisis team
- **Myth:** Freestanding psychiatric hospitals are never subject to EMTALA

EMTALA and Behavioral Health Screenings – Myths and Misunderstandings

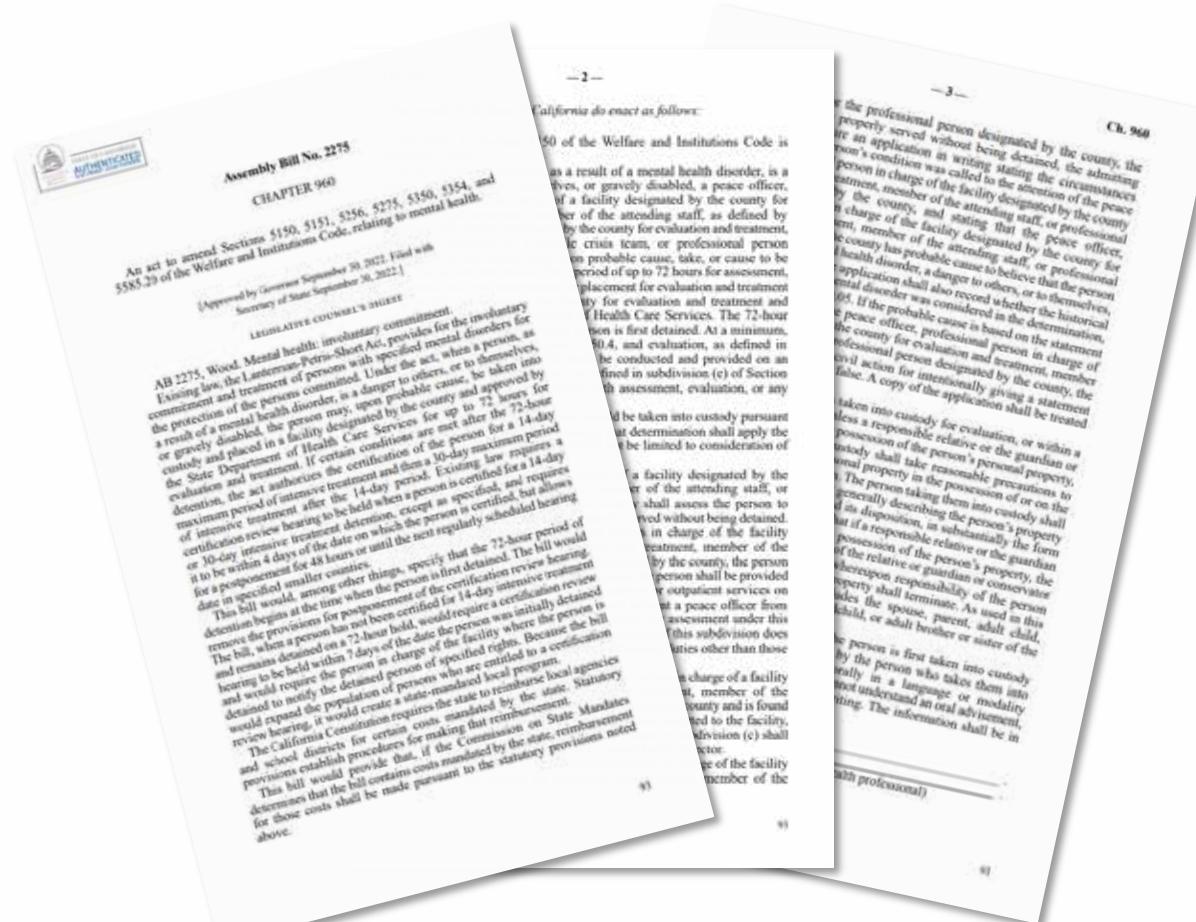
- What does a 5150 mean for EMTALA?
- What diagnostic tests should be performed? Are required by law?
- Can non-hospital employed crisis staff assist with patients in a hospital ED?
- What if there are disagreements over the 5150 hold between hospital staff and County mental health crisis team staff?
- Once patient is medically clear who is responsible for patient?

Medical Emergencies, Holds, and Consent – Myths and Misunderstandings

- Who can consent for medical care in an emergency?
- Can a hospital use Health & Safety Code § 1799.111 to force medical care/surgery on a hospital unit when patient refuses to consent to care?

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Assembly Bill 2275



AB 2275 – Myths and Misunderstandings

- Serial hold must be written vs. “no such thing as a serial hold”
- What to call the “AB 2275 hold”?
- How long does the hold last?
- Process followed during hearing (who gives testimony?)
- Form reflecting decision of hearing officer?
- Does the hearing have to occur before a transfer to an inpatient unit?

AB 2275 – Mysteries

- What if § 5150 application form reflects danger to others (DTO), and hearing officer finds danger to self (DTS)?
- What happens after 7 more days? When does the § 5250 clock start?
- Is there a specific AB 2275 form?

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Other pressing concerns and new laws...

SB 43 – Updated Definition of Grave Disability

A condition in which a person, as a result of a mental health disorder, **a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder**, is unable to provide for their basic needs for food, clothing, shelter, **personal safety, or necessary medical care**.



CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES Senate Bill (SB) 43, Changes to “Gravely Disabled” Behavioral Health Information Notice: 24-011 Frequently Asked Questions (FAQs)

On October 10, 2023, the Governor signed [Senate Bill \(SB\) 43](#), which made substantive changes to the Lanterman-Petris-Short (LPS) Act and a related provision of the Health and Safety Code (HSC). On March 25, 2024, DHCS issued [Behavioral Health Information Notice \(BHIN\) 24-011](#) to summarize the changes.



SB 27 – Expansion of CARE Act Criteria

CONFIDENTIAL

CARE-100

ATTORNEY OR PETITIONER WITHOUT ATTORNEY	STATE BAR NUMBER	FOR COURT USE ONLY
NAME: FIRM/NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE: FAX NO.: ZIP CODE:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):		
PETITION TO BEGIN CARE ACT PROCEEDINGS		RESPONDENT CASE NUMBER:
For information on completing this form, see Information for Petitioners—About the CARE Act (Form CARE-050-INFO), visit the CARE Act webpage on the self-help website at https://selfhelp.courts.ca.gov/care-act , or contact your local court's self-help center. To find the location and hours of your self-help center, click https://selfhelp.courts.ca.gov/whr/help/find-self-help .		
1. I (enter your name here): am asking the court to find that (name of the person you want services for, who is called the respondent): is eligible to participate in the CARE Act process. The respondent was born on: (date of birth, if you know it): _____ or I do not know the respondent's date of birth, but the respondent is (approximate age, in years): _____ years old.		
2. I am 18 years of age or older and (check all categories that apply to you): a. <input type="checkbox"/> A person who lives with the respondent. b. <input type="checkbox"/> A spouse or registered domestic partner, parent, sibling, child, or grandparent of the respondent. c. <input type="checkbox"/> A person authorized to act in place of the respondent's parent. d. <input type="checkbox"/> The director of the county behavioral health agency of this county. e. <input type="checkbox"/> A licensed behavioral health professional who is or has been, within the past 30 days, treating or supervising the treatment of the respondent. f. <input type="checkbox"/> The director of a hospital in which the respondent is hospitalized. g. <input type="checkbox"/> The director of a public or charitable organization, agency, or home (1) <input type="checkbox"/> who is or has been, within the past 30 days, providing behavioral health services to the respondent; or (2) <input type="checkbox"/> in whose institution the respondent resides. h. <input type="checkbox"/> The respondent. * If you are in a category above that is followed by *, you may designate someone to file the petition on your behalf. If you have been designated to file a petition by a person in a category followed by *, check that category and enter your name above.		
3. I have interacted with the respondent as follows (describe when (give the date) you last saw them, and what happened when you interacted with the respondent): <input type="checkbox"/> If you need more space for your answer, please use a separate piece of paper and label it as Attachment 3.		
Page 1 of 6 Form Adapted for Alternative Mandatory Use Instead of Form CARE-100 Statewide Council of California Courts CARE-100 (Rev. July 1, 2010) Petition to Begin CARE Act Proceedings Mental Health and Institutions Code, §§ 1473-1476, 1477.4, 1478 www.courtinfo.ca.gov		

Expansion of CARE Act Criteria (1/1/26) to include a patient that has a diagnosis identified in the disorder class:

- Schizophrenia spectrum and other psychotic disorders, or bipolar I disorder with psychotic features, except psychosis related to current intoxication

Changes to who signs affidavit supporting CARE petition:

- Includes NPs and PAs as "licensed behavioral health professionals"

Other Concerns – DHCS 1801 Form

State of California – Health and Human Services Agency		Department of Health Care Services
Application for up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment		
Confidential Client/Patient Information		
<p>Welfare and Institutions Code (W&I Code), section 5150(g)(1), requires that each person, at the time they are first taken into custody under this section, shall be provided, by the person who takes them into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing.</p>		
<input type="checkbox"/> Complete Advisement <input type="checkbox"/> Incomplete Advisement Date of Advisement/Attempt: _____		Good Cause for Incomplete Advisement:
<p>Detainment Advisement</p> <p>My name is _____, I am a (peace officer/behavioral health professional) with (name of agency). You are not under criminal arrest, but I am taking you for examination by behavioral health professionals at (name of facility).</p> <p>You will be told your rights by the behavioral health staff.</p> <p>If taken into custody at their residence, the person shall also be told the following:</p> <p>You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You may make a phone call and leave a note to tell your friends or family where you have been taken.</p>		
Advisement Completed/Attempted By: _____		Position: _____
Language or Modality Used: _____		
<p>To (name of 5150 designated facility): _____</p> <p>Application is hereby made for the assessment and evaluation of _____</p> <p>date of birth _____, and residing at _____</p> <p>California, for up to 72-hour assessment, evaluation, and crisis intervention, or placement for evaluation and treatment at a designated facility pursuant to Section 5150, et seq. (adult) or Section 5585 et seq. (minor).</p> <p>(W&I Code. Detainment Start Date: _____ Detainment Start Time: _____</p> <p>(The 72-hour period begins at the time when the person is first detained.)</p>		
<p>If the authorization for voluntary treatment is not available for a minor/conservatee, indicate to the best of your knowledge who has legal authority to make medical decisions on behalf of the minor/conservatee: (name & contact information, if available)</p> <p>(Check one): <input type="checkbox"/> Parent(s) <input type="checkbox"/> Legal Guardian(s) <input type="checkbox"/> Conservator <input type="checkbox"/> Other: _____</p> <p>Indicate to the best of your knowledge whether the minor is under the jurisdiction of the juvenile court:</p> <p>(Check one): <input type="checkbox"/> W&I Code 300 (dependent) <input type="checkbox"/> W&I Code 601, 602 (ward)</p>		
<p>The detained person's condition was called to my attention under the following circumstances:</p> <p>_____</p> <p>_____</p> <p>_____</p>		
<p>Specific facts that I have considered that lead me to believe that this person is a danger to self or others as a result of a mental health disorder or gravely disabled as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		

To (name of 5150 designated facility): _____
Application is hereby made for the assessment and evaluation of _____,
date of birth _____, and residing at _____,
California, for up to 72-hour assessment, evaluation, and crisis intervention, or placement for evaluation
and treatment at a designated facility pursuant to Section 5150, et seq. (adult) or Section 5585 et seq.
(minor), of the _____ Detainment Start Date: _____ Detainment Start Time: _____
(The 72-hour period begins at the time when the person is first detained.)

<p>Signature, title, and badge number of peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county.</p> <p>Name of Law Enforcement Agency or Evaluation Facility/Person:</p> <p>Address: _____ City: _____ State: _____ Zip Code: _____</p> <p>Name: _____ Title: _____ Badge Number: _____ Phone: _____</p> <p>Signature: _____ Date: _____ Time: _____</p>  <p>References</p>			
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Other Concerns – DHCS 1801 Form (cont.)

State of California – Health and Human Services Agency Department of Health Care Services

Application for up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment

Confidential Client/Patient Information

Welfare and Institutions Code (W&I Code), section 5150(g)(1), requires that each person, at the time they are first taken into custody under this section, shall be provided, by the person who takes them into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing.

Complete Advisement Incomplete Advisement Good Cause for Incomplete Advisement:
Date of Advisement/Attempt: _____

Detainment Advisement
My name is _____ I am a (peace officer/behavioral health professional) with (name of agency). You are not under criminal arrest, but I am taking you for examination by behavioral health professionals at (name of facility). You will be told your rights by the behavioral health staff.

If taken into custody at their residence, the person shall also be told the following:
You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You may make a phone call and leave a note to tell your friends or family where you have been taken.

Advisement Completed/Attempted By: Position: _____ Language or Modality Used: _____

To (name of 5150 designated facility): _____ Application is hereby made for the assessment and evaluation of _____, date of birth _____, and residing at _____, California, for up to 72-hour assessment, evaluation, and crisis intervention, or placement for evaluation and treatment at a designated facility pursuant to Section 5150, et seq., (adult) or Section 5585 et seq. (minor), of the W&I Code. Detainment Start Date: _____ Detainment Start Time: _____
(The 72-hour period begins at the time when the person is first detained.)

If the authorization for voluntary treatment is not available for a minor/conservatee, indicate to the best of your knowledge who has legal authority to make medical decisions on behalf of the minor/conservatee: _____
(name & contact information, if available)

Parent(s) Legal Guardian(s) Conservator Other: _____

Indicate to the best of your knowledge whether the minor is under the jurisdiction of the juvenile court:
(Check one): W&I Code 300 (dependent) W&I Code 601, 602 (ward)

The detained person's condition was called to my attention under the following circumstances:

Specific facts that I have considered that lead me to believe that this person is a danger to self or others as a result of a mental health disorder or gravely disabled as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder:

Please Note: A copy of this application shall be treated as the original.

_____, of the W&I Code. Detainment Start Date: _____ Detainment Start Time: _____

(The 72-hour period begins at the time when the person is first detained.)

If the authorization for voluntary treatment is not available for a minor/conservatee, indicate to the best of your knowledge who has legal authority to make medical decisions on behalf of the minor/conservatee: _____
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Parent(s) Legal Guardian(s) Conservator Other: _____

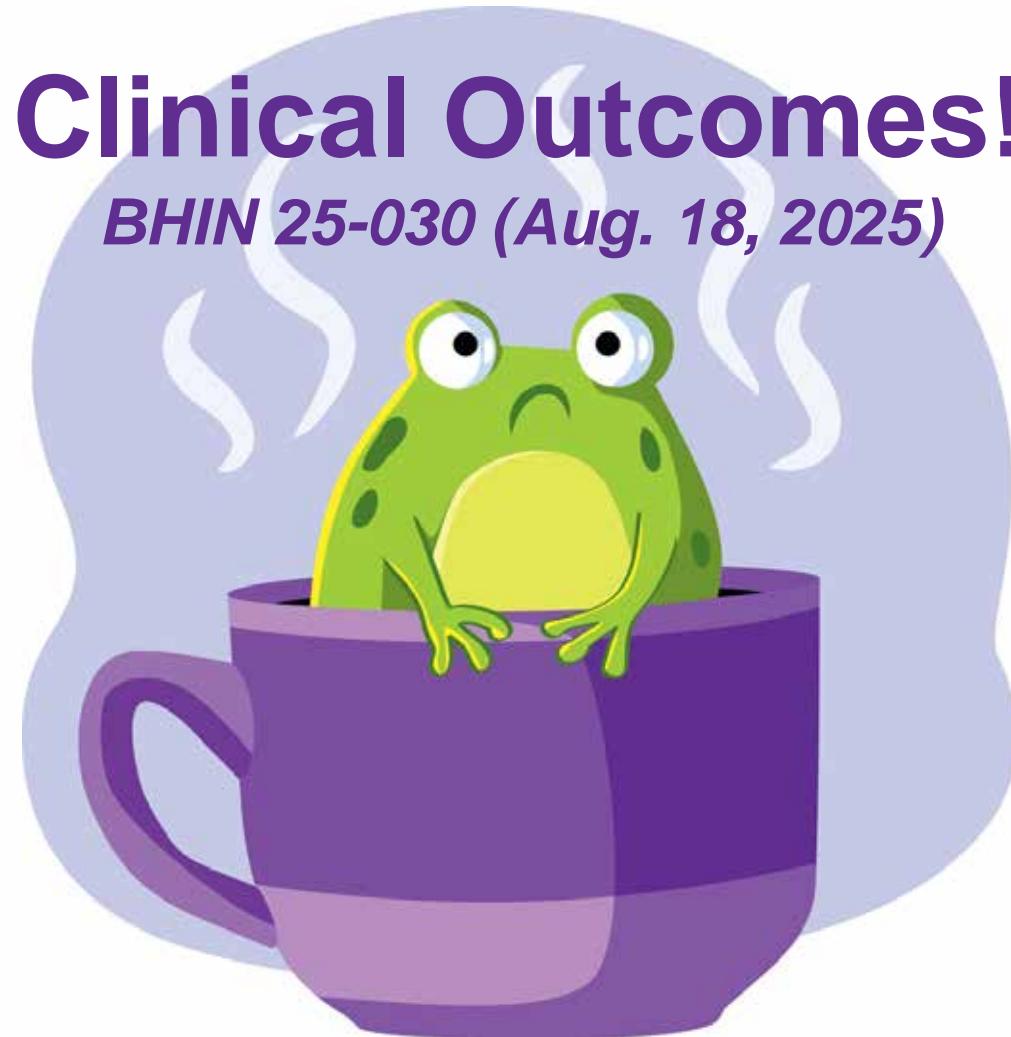
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(Check one): W&I Code 300 (dependent) W&I Code 601, 602 (ward)

The detained person's condition was called to my attention under the following circumstances:

Other Concerns – SB 929 *Expanded* Data Collection

Clinical Outcomes!

BHIN 25-030 (Aug. 18, 2025)



Questions?



Thank you!



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