Attachment A

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LANTERMAN-PETRIS SHORT (LPS) DESIGNATION GUIDELINES & PROCESSES FOR FACILITIES WITHIN SAN DIEGO COUNTY

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Declaration: Facilities which meet the criteria and process requirements set forth in this document may be designated by the San Diego County Board of Supervisors to evaluate and treat persons involuntarily detained under the Lanterman- Petris-Short Act (LPS Act), California Welfare and Institutions Code (WIC) Part 1 of Division 5 (commencing with Section 5000)., and California Code of Regulations (CCR) Title 9, Section 821. DHCS has the sole authority to approve county designation of facilities to provide treatment under the LPS Act. (W&I Code § 5404(b).)

Objectives: The objectives of these LPS Designation Guidelines and Processes for Facilities within San Diego County are to:

1. Enhance the capability and overall quality of the mental health delivery system in San Diego County.

2. Ensure proper utilization of the designation authority by granting it to only those facilities which meet specified guidelines.

3. Establish the terms of and conditions pertaining to the delegation of authority by which individuals are taken into custody under the LPS Act.

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I. LPS Designation Guidelines for Facilities

Delegation of Authority to Involuntarily Detain and Treat

The authority under the LPS Act for a facility to hold individuals and to involuntarily treat mental health patients is vested by state law by the San Diego County Board of Supervisors and then must be approved by the Department of Health Care Services (DHCS). Involuntary detention under the LPS Act constitutes a significant deprivation of civil liberties that is supported under limited circumstances described in law and regulation. Involuntary detention and treatment are deemed necessary when required to protect the safety of certain individuals and the community in circumstances permitted by law. These guidelines describe the nature, extent, and processes by which authority for facilities to involuntarily detain and treat under the LPS Act is designated by the County of San Diego Board of Supervisors (with approval by DHCS).

Facility Operations Guidelines

1. A facility is not required to be LPS designated in order to provide assessment, evaluation, and crisis intervention in accordance with subdivision a of section 5150 of the Welfare and Institutions Code.
    a. Regardless of whether a general acute care hospital has obtained the optional LPS designation for its Emergency Department, Emergency Department physicians who have successfully completed the BHS training and testing approved by the Director of BHS related to the WIC §§ 5150 and 5585.50 detention processes can write 5150 holds.

2. A facility listed in Section C (below) can be designated to provide one or more of the following levels of treatment to a patient pursuant to Chapter 2 of the LPS Act:
    a. Evaluation and treatment in accordance with Article 1 (commencing with Section 5150).
    b. Intensive treatment in accordance with Article 4 (commencing with Section 5250).
    c. Additional intensive treatment in accordance with Article 4.5 (commencing with Section 5260).
    d. Additional intensive treatment in accordance with Article 4.7 (commencing with Section 5270.10).

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e. Post certification treatment in accordance with Article 6 (commencing with Section 5300).

3. "Designated Facility" has the same meaning as defined in section 5008 of the Welfare and Institutions Code. and includes a facility, or a distinct part, unit, or area of a facility, that is designated by a San Diego County BHS and approved by the Department to provide treatment pursuant to the LPS Act. A designated facility provides evaluation and treatment services for persons who, as a result of a mental disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, are judged to be dangerous to self or others and/or gravely disabled and is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care." It adheres to those regulations and statutes relevant to the clinical, health, and safety needs of those persons.

4. The facility shall comply with applicable constitutional, statutory, regulatory, and decisional law, including but not limited to WIC § 5000 et seq., the requirements set forth in CCR, Title 9, Sections 663, 821-829 and 835-868, the requirements governing mental health facilities and/or treatment of CCR Titles 22 and 24, the Civil Code, Health and Safety Code, most recent DHCS LPS guidance and regulations, and all applicable policies, procedures, or guidelines governing LPS designation established by the County of San Diego, Health and Human Services Agency Behavioral Health Services (BHS) department.

5. The facility shall maintain all applicable current licenses, accreditations, and certifications as appropriate for its type. No designated facility may show any gross violation of clinical practice and/or safety provisions relevant to the class of persons for whom the designation applies, although the violations may not be explicitly covered by licensing standards. Any such gross violations, as determined by the Director of BHS, can result in discontinuance of the facility designation.

6. All designated Skilled Nursing Facilities and Psychiatric Health Facilities shall comply with all provisions of CCR, Title 22, and all laws, regulations, and standards of care as apply to them. The facility shall assume the full responsibility for assuring appropriate patient care and safety, and accepts all attendant legal obligations.

7. The facility shall have 24-hours-a-day, 7-days-a-week mental health admission, evaluation, referral, and treatment capabilities, and provide whatever mental health treatment and care involuntarily detained persons require for the full period they

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are held (WIC, Section 5152). 5150 Designated staff shall be available on a 24-hours-per-day, 7-days-per-week basis in order to ensure that patients are released from the hold as soon as possible after it is determined they no longer require detention.

8. San Diego County shall only designate the following types of facilities to provide treatment pursuant to the LPS ACT:

    a. Health facilities licensed by the State Department of Public Health in accordance with Chapter 2 of Division 2 of the Health and Safety Code.

    b. Psychiatric health facilities (PHF) licensed by DHCS in accordance with WIC §4080 and section 1250.2 of the Health and Safety Code.

    c. Psychiatric residential treatment facilities licensed by DHCS in accordance with WIC §4081 and section 1250.10 of the Health and Safety Code.

    d. Mental health rehabilitation centers licensed by DHCS in accordance with WIC §5675.

    e. Hospitals operated by the United States Department of Veterans Affairs.

    f. Crisis stabilization units (CSU), which are only LPS designated to provide evaluation and treatment per WIC, §5150.

    g. Jail LPS units

    h. Another type of facility that is licensed by DHCS or the State Department of Public Health, permitted under its licensure to provide treatment to patients diagnosed with a mental health disorder, severe substance use disorder, or co-occurring mental health disorder and severe substance use disorder.

9. Facilities that are not permitted under the terms of their licensure or accreditation to provide substance use disorder treatment will not be LPS designated to treat patients who are deemed gravely disabled as a result of a severe substance use disorder or a co-occurring severe substance use disorder and mental health disorder.

10. Only locked facilities shall be LPS designated with the exception of CSU's, which can be either locked and/or staff-secured with delayed egress.

11. Facilities must continually satisfy all standards of Article 3 of the most recent DHCS

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LPS guidance and regulations. If the entire premises of the facility will not continually satisfy all standards of Article 3, San Diego County shall only designate the distinct part, unit, or area of the facility that continually meets these standards.

12. Appropriate mental health staffing, assessments, programs and treatment shall be provided to all involuntarily detained patients regardless of their physical location within the facility.

13. Patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement shall be housed separately from the civilly detained or voluntary behavioral health patient population.

14. All rights guaranteed to mental health patients by statutes and regulations are observed for all individuals with specific exceptions (WIC Section 5326) for patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement. In order to ensure access to mental health services to patients under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement, the Director of BHS has adopted the following conditions under which certain rights may not be guaranteed:

    a. For patients from a Federal Detention facility under the jurisdiction of the Department of Justice, Department of Corrections, or imprisoned primarily pursuant to the jurisdiction of state or federal law, the Departments of Justice and Corrections or federal and state law enforcement shall have the authority to determine if the right to make and receive phone calls, to receive visitors, to write or receive mail, or to access personal property may be allowed in the LPS facility. The grounds for such an abridgement of rights must be documented in the patient file given to the hospital and the removal of rights must be noted in the patient's hospital record.

    b. The rationale for denial of any rights, including those noted above that have been removed by the Department of Justice or the Department of Corrections, shall, in all cases, be entered into each patient's treatment record.

    c. All rights to administrative and judicial review to which patients may be entitled, including but not limited to certification hearings, medication capacity hearings, and writs of habeas corpus, shall be properly initiated,

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implemented, and conducted. Patients and their designated support person (if one has been identified) shall be notified in a timely manner of their rights and hearings.

15. The involuntary treatment provisions of the LPS Act shall not be used to authorize or deliver medical treatment. Consent to medical treatment must be obtained by the patient, their authorized representative, or a court order for involuntary physical health treatment because the patient lacked capacity to consent.

16. A designated facility that is licensed by the State Department of Public Health as a general acute care hospital, correctional treatment center, or a federal Veterans Affairs Hospital, may provide physical health services to a patient receiving treatment pursuant to the LPS Act in undesignated areas of the facility as long as the patient has a need for physical healthcare that cannot be provided in the designated area, the designated facility continues to provide behavioral health treatment to the patient, and the time spent out of the designated area counts toward the patient's total period of detention as required by section 5258 of the Welfare and Institutions Code.

17. The facility ensures that, of the time patients spend in a non-designated medical facility emergency department to which they have come for medical treatment and wherein identified staff believe there is a need for 5150 evaluation, any detention time from the time that the person has been detained on the 5150 and is awaiting placement to a designated facility is deducted from the subsequent 72-hour detention period, pursuant to Health and Safety Code Section 1799.111

18. Prior to admitting a person to a designated facility pursuant to WIC Section 5150, the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention, as per WIC Section 5151.

19. Once a facility accepts the patient for treatment, it shall assume the responsibility for seeing the case through to its appropriate disposition (i.e. the clinically indicated, available, and legally allowable treatment, referral or placement that best meets the patient's clinical needs and desires).

20. The facility shall ensure that treatment information and services, rights, notifications, and advisements are communicated in a language and modality accessible to the patient. The facility shall make arrangements for interpreters or for use of other mechanisms to ensure adequate communication between patients and

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personnel, if any language or communication barriers exist between facility staff and patients.

21. The facility shall allow BHS to review the facility for initial designation and for redesignation site reviews, which will occur every 3 years.

22. The facility shall allow the County of San Diego Patients' Rights Advocates access to all staff and patients at all times to conduct investigations to resolve specific complaints. Patients shall be allowed access to the Patients' Rights Advocates at any time.

23. The facility shall allow the Director of BHS or designee and the County of San Diego Patients' Rights Advocates access, upon request, to all treatment records, logs, policy and procedure manuals, contracts, credentials files and/or personnel records of staff empowered to initiate 72-hour holds, and other professional staff in order to conduct investigations and assess compliance with LPS and Patients' Rights statutes and regulations. The County of San Diego Patients' Rights Advocates may conduct unannounced site visits of each facility.

24. The facility shall abide by the procedures established by the Superior Court and BHS for all mental health-related court hearings that are facility-based (including but not limited to certification review [probable cause] hearings, medication capacity ["Riese"] hearings, inpatient admission of persons 14–17 year old [Roger S.] hearings and clinical reviews), and court-based hearings (including writs of habeas corpus, medication capacity appeals, and all conservatorship proceedings).

25. The facility is responsible for transport and escort of patients to and from, and supervision at, all mental health-related court hearings.

26. The facility provides adequate space and staff to ensure that all facility-based hearings are conducted without interruption and in an atmosphere that affords privacy and ensures confidentiality and safety.

27. Facilities must abide by Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6) requirements regarding seclusion and behavioral restraint as well as all Title 9, Health and Safety Code, Centers for Medicare & Medicaid Services (CMS), The Joint Commission (TJC) standards, and the most recent DHCS LPS guidance and regulations. The facility's policies and procedures for using seclusion and/or behavioral restraints with mental health patients shall adhere to the following principles and practices:

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a. Seclusion and/or behavioral restraint is only used only as a measure to prevent immediate injury to the patient or others and only when less restrictive alternative measures are not sufficient to protect the patient or others from injury.

b. The facility shall abide by all Patients' Rights Conditions of Participation as set forth by CMS in 42 CFR part 482 inclusive of seclusion and behavioral restraint requirements and ensures that a physician or qualified nursing staff perform face-to-face assessment of the patient within one hour of initiation of seclusion and/or restraint. The order of the treating physician details the date, time, and method of seclusion and/or behavioral restraint and the specific behavior supporting good cause for the intervention. The order is limited to a maximum of 4 hours for adults, 2 hours for children and adolescents ages 9-17, and one hour for patients under age 9. PRN orders for seclusion or behavioral restraint are not allowed. Staff shall continually assess, monitor, and evaluate patients in seclusion and/or behavioral restraints to ensure release at the earliest possible time.

c. A designated facility shall not use seclusion or behavioral restraints for the convenience of staff, to punish or discipline a patient, or as a substitute for a less restrictive alternative form of treatment.

d. Seclusion and behavioral restraints shall not be used to compensate for inadequate staffing, lack of program or building security.

e. Documentation supports staff awareness of patient's expressed preferences regarding de-escalation techniques and alternatives to seclusion and/or behavioral restraint, why patient preferences were not appropriate, and that seclusion and/or restraint was the least restrictive method available to prevent injury to patient or others.

f. The original physician order for seclusion and behavioral restraint, if renewed for another period of time, does not exceed the time limits established in Title 22, Health and Safety Code (Div. 1.5 commencing with Section 1180-1180.6).

g. There is documentation, for each incident of use of seclusion and/or behavioral restraint, of any/all applicable WIC §5325 patient rights having been denied and subsequently restored after seclusion and/or behavioral restraint have ended.

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h. Debriefing of staff and debriefing of patient occur after each seclusion and behavioral restraint episode.

28. Seclusion in a jail LPS unit means placement of the inmate patient in a safety cell per section 1055 of title 15 of the California Code of Regulations 8734

29. The facility shall have a system and procedures in place to ensure the confidentiality, security, integrity, and accessibility of patient health information, inclusive of a contingency plan for the storage and protection of filed medical records against unauthorized intrusion and/or damage.

30. The facility shall submit required quarterly reports to the Director of BHS regarding involuntary detentions, patients' rights denials, and electroconvulsive treatment administered, as required by WIC 5326.1, 5326.15, and CCR, Title 9, Section 866, Senate Bill 929, Senate Bill 1184, Senate Bill 43, and Title 22.

31. Unusual occurrences (critical incidents) are reported to appropriate Licensing, State, and County agencies, as needed:

    a. A designated facility that is licensed by the State or subject to federal accreditation requirements shall report unusual occurrences (critical incidents) to its licensing or accreditation authority in accordance with its applicable licensing or accreditation requirements as well as to San Diego County BHS through the Critical Incident Reporting (CIR) process.

    b. However, the following LPS designated facility types will need to report the following additional unusual occurrences per the County of San Diego Behavioral Health Services (BHS) Incident Reporting process for LPS facilities: Crisis Stabilization Units (CSU), Jail LPS units, and designated facilities that are that are approved by the California Department of Health Care Services (DHCS) under subsection (b)(12)(H) of Section 3 that are not required to report critical incidents to a licensing or oversight authority. San Diego County BHS shall provide the DHCS LPS team with a report of its resolution of the investigation, including any corrective action plans and supporting documentation, within 30 calendar days of concluding the investigation.

32. During the 3-year designation period, the number of LPS designated beds in a facility can only be changed with prior approval from San Diego County BHS and from DHCS.

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a. The facility should notify the BHS Director in writing with 10 days advance notice before the date on which the facility's designated bed capacity is scheduled to change. The BHS Director will submit the request to DHCS for approval.

b. The facility must also provide the following documentation to the BHS Director:

   i. A copy of the license, certification, or accreditation reflecting the current amount of beds

   ii. Documentation of the levels of treatment as described in subsection (a) of Section 3 of the most recent DHCS LPS guidance and regulations

   iii. The behavioral health conditions that the facility will treat in the additional beds

   iv. Documentation that the entire facility, or designated area of the facility, will meet the staffing standards in Section 12 of the most recent DHCS LPS guidance and regulations

33. The facility shall notify BHS of any changes that may significantly affect the facility's conformance with the criteria for designation, including change of ownership, modification of physical structure, demographic or diagnostic aspects of patient population, therapeutic services, or policies or procedures concerning staffing, program, or operations. Based on receipt and analysis of such information, the Director of BHS may require successful completion of a focused review as a condition of continued facility designation. The focused review will occur within 6 months of the change.

34. The facility shall indemnify, and hold harmless the County of San Diego BHS, County of San Diego Board of Supervisors, and the State Department of Health Care Services (DHCS), and their officers, agents and employees, from and against any and all claims, losses, liabilities, or damages arising out of, or resulting from the facility's or its designees' exercise of County-granted or DHCS-approved LPS authority to detain and treat patients on an involuntary basis.

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Staffing Guidelines

1. Facility staffing shall maintain the staffing ratio requirements per the most recent DHCS LPS guidance and regulations.

2. The facility shall maintain an organizational chart listing facility staff, job descriptions, daily staffing schedules, current and valid California professional licenses professional licenses and credentials where required.

3. The facility shall maintain documentation that the Professional Person in Charge of the Facility (PPIC) and Nursing Head of Service, and their designees, are qualified in accordance with Section 12 of the most recent DHCS LPS guidance and regulations.

4. An organizational chart listing facility staff and staff-to-patient census ratios in accordance with Section 12 of the most recent DHCS LPS guidance and regulations.

5. A description of the population admitted by the facility, including age range and genders.

6. The facility shall have adequate 24-hour professional supervision to meet the clinical needs and ensure the safety of patients judged to be dangerous to themselves or others or gravely disabled.

7. All staff involved in the evaluation and treatment of involuntary patients shall be fully conversant with the involuntary detention statutes (WIC § 5150 et seq.), with patients' rights statutes, (WIC §§ 5325 and 5325.1), and related regulations (9 CCR § 860 et seq.), inclusive of inclusive of behavioral health physicians, nursing staff, licensed behavioral health professionals and behavioral health personnel.

8. A designated facility shall provide an orientation to all newly employed and contracted staff who provide treatment pursuant to the LPS Act prior to their direct contact with patients. The orientation shall include training on the designated facility's organization, policies and procedures for complying with the LPS Act and the standards in this article, and the contents of the facility's program statement.

9. A designated facility shall require staff who provide treatment pursuant to the LPS Act to repeat the orientation at least annually.

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10. Prior to direct contact with patients, a designated facility shall train staff who provide treatment pursuant to the LPS Act on the following additional topics:

    a. The safe use of restraint and seclusion, including the ability to recognize and respond to signs of physical distress in patients who are in restraint or seclusion

    b. De-escalation, crisis intervention, positive behavior management techniques, and prevention and management of assaultive and self-injurious behavior

    c. Assessment and observation required by subsection (d) of Section 11, in facilities that admit patients who are presently intoxicated or experiencing withdrawal symptoms, or at risk of experiencing withdrawal symptoms

    d. Suicide prevention techniques

    e. Medications for addiction treatment

11. A designated facility shall provide full-time staff with at least 20 hours per year of continuing training. A designated facility may prorate the required number of hours for part-time staff.

12. A designated facility shall document and retain all orientation and training sessions by maintaining a record of the training date and title, syllabus or curriculum, training materials, and sign-in sheets by attendees. The completed orientation and training sessions should be documented in the employee's personnel record, including the name of the person certifying completion and these records should be maintained for a minimum of three years.

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Policies and Procedures

The facility shall have acceptable policies and procedures, plans, and contracts (without compensation or inducement for referring patients) which comport to WIC, CCR, and the California Business and Professions Code related to the legal, ethical, fiscally sound, and clinically appropriate psychiatric treatment of both voluntary and involuntary patients. These policies and procedures, plans, and contracts shall be made available for review and must include, but are not limited to, the following:

Admissions Policies and Procedures

1. To ensure that 5150 forms received by the facility contain documentation of a specific factual basis in support of each 5150

2. To ensure safe and orderly transfer of physical custody of the person from law enforcement

3. To ensure that a qualified professional conducts a face-to-face or telehealth assessment of the person presented and makes the determination whether to admit pursuant to 5150, admit voluntarily, or refer for other services

4. For disposition of persons brought in by law enforcement or otherwise presented for evaluation and treatment who are not admitted, including those who decline alternative services

5. For establishing validity of conservatorship and obtaining approval for admission

6. To ensure that persons assessed and admitted, voluntarily or involuntarily, receive an evaluation as soon as possible after admission

7. To ensure that persons admitted receive whatever treatment and care his or her condition requires for the full period that he or she is hospitalized

8. Regarding release before the end of a 72-hour hold

9. To ensure documentation of patient's concerns, needs, limitations, and physical health needs (including assessment and documentation of pre-existing injuries), and determination of appropriate bed assignment (i.e. need for private room, proximity to nurse's station, factors affecting roommate selection, safety issues

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10. To ensure documentation of patient's needs and preferences regarding the use of seclusion/restraint, including triggers and/or precipitants to aggressive behavior, patient's preferred de-escalation techniques, pre-existing medical conditions, limitations, or disabilities that constitute risk factors and history of trauma, physical or sexual abuse

11. Regarding obtaining informed consent from the patient or conservator for psychotropic medication including explanation of type and dosage of medication, therapeutic effects, and potential side effects. Any patient who has been detained on a 5150 and who is receiving psychiatric medication as a result of their mental illness, as soon as possible after detention, shall be provided with written and oral information about the probable effects and possible side effects of the medication.

12. Regarding emergency administration of medication

13. Regarding patient advisement of legal status

14. To ensure patient receives the state mandated patients' rights handbook, Behavioral Health Member Quick Guide, and other patients' rights notifications and advisements (and document receipt in the patient's record).

15. To advise that the Behavioral Health Member Handbook is present in all available threshold languages and that patients are advised of their right to review it in their preferred language (and document this advisement in the patient's record).

16. Detailing methods for ensuring that treatment information and services, patient rights, due process (including procedures relating to rights, certification hearings, writs of habeas corpus, and medication capacity) notifications, advisements, are communicated in a language and modality accessible to the patient

17. Regarding Department of Justice firearms prohibition, notification, and filing of paperwork

18. Regarding patient consent for release of information, including circumstances requiring consent, information given to patient, documentation required, and method of ensuring patient receives copy of all signed consents

19. Regarding inventory and safeguarding of all patient property upon admission

20. Regarding filing of requests for Riese hearings

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21. To ensure documentation of good cause for all incomplete advisements and procedures for ensuring that the required subsequent attempts to advise are made and documented

22. Regarding documentation of any denials of patients' rights including documentation of good cause, appropriateness of denial as least restrictive, the time limit(s) of denial, and the end time of the denial period

23. Providing evidence that rights regarding receiving visitors, making and receiving phone calls, and sending and receiving mail and/or access to personal property are not to be earned by the patient or subject to limitation by parent, guardian, or conservator. For patients from a Federal Detention facility under the jurisdiction of the Department of Justice, Department of Corrections, or imprisoned primarily pursuant to the jurisdiction of state or federal law, the Departments of Justice and Corrections or federal and state law enforcement shall have the authority to determine if those rights may be allowed in the LPS facility

24. Providing evidence that trained staff are available at all times to inform involuntary patients requesting release of right to file writ of habeas corpus, including providing and assisting with appropriate paperwork and ensuring timely filing. This includes evidence regarding patient advisement of legal status and rights to a hearing by writ of habeas corpus after they or any person acting on their behalf has made a request for release and the request can be made to any treating staff member

25. Detailing that, absent judicial determination of incompetence to consent, patients on 72-hour or 14-day holds or temporary conservatorship who refuse to give consent are medicated only in an emergency as defined in 9 CCR § 853

26. To ensure medications are not used in quantities that interfere with the patient's ability to routinely participate in the treatment program

27. To ensure that, for any disclosure of records or information, the facility has appropriate documentation including: the date, circumstance under which disclosure was made, to whom disclosure was made and specific information disclosed

28. Regarding separate consents to treatment including, but not limited to, psychiatric medications, voluntary treatment, voluntary ECTs, and medical treatment

29. Regarding room searches and search of patients

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Facility Practices Policies and Procedures

1. Regarding facility code of ethics and conflict of interest; resolving patient complaints, grievance and appeal processes, and Advance Directives

2. Regarding criteria for identifying potential abuse, procedures for management of alleged physical and sexual abuse, mandated abuse reporting

3. Detailing program services and schedules and addressing staffing plans based on patient care

4. Regarding mobile assessment team including member names, professional licenses, proof of 5150 training, scope of authority, staffing schedules and procedures to ensure review of 5150s written by mobile assessment team

5. Regarding medication dispensing and control

6. Regarding internal monitoring, review and auditing of medical records on an ongoing basis

7. Regarding Utilization Review

8. Regarding identification, reporting and management of critical incidents

9. Detailing safety and disaster plans

10. Regarding 5150 training list of designated staff, and renewal requirements

11. To ensure timely notification to court and to clients of hearings

12. Regarding elopement

13. Regarding safeguarding of patient belongings throughout hospitalization and during transfer and discharge

14. Regarding usage of the Tarasoff procedure

Seclusion and Behavioral Restraint Policies and Procedures

1. Definitions of seclusion and behavioral restraint are as follows:

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a. "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a patient presents an immediate danger to self or to others.

b. "Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the patient's body that they cannot easily remove and that restricts the freedom of movement of all or part of a patient's body or restricts normal access to the person's body, and that is used as a behavioral restraint.

c. "Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a patient's body, or to restrict normal access to the patient's body, and that is used as a behavioral restraint. "Physical restraint" is staff-to-patient physical contact in which the patient unwillingly participates. "Physical restraint" does not include briefly holding a patient without undue force in order to calm or comfort, or physical contact intended to gently assist a patient in performing tasks or to guide or assist a patient from one area to another.

2. Seclusion and/or behavioral restraint is only used as a measure to prevent immediate injury to the patient or others and only when less restrictive alternative measures are not sufficient to protect the patient or others from injury (most recent DHCS LPS guidance and regulations). A designated facility shall not use seclusion or behavioral restraints for the convenience of staff, to punish or discipline a patient, or as a substitute for a less restrictive alternative form of treatment.

3. Addressing practices staff must follow to obtain an order for the use of seclusion and/or restraint when the physician is not on site

4. To ensure documentation supports staff awareness of patient's expressed preferences regarding de-escalation techniques and alternatives to seclusion and/or restraint, the reasons why patient preferences were not appropriate in each instance, and that seclusion and/or restraint was least restrictive method available to prevent injury to patient or others.

5. To ensure that a physician or qualified nursing staff performs a face-to-face assessment of the patient within one hour of initiation of seclusion and/or restraint

6. Describing good cause and necessary details to be included on the physician order

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for seclusion and/or behavioral restraint

7. To ensure that staff continually assess, monitor, and evaluate patients in seclusion and/or behavioral restraint to ensure release at the earliest possible time

8. Regarding debriefing of patients and staff following incidents of use of seclusion and/or behavioral restraint

9. Regarding documentation of patients' rights listed in section 5325 of the Welfare and Institutions Code that are denied while a patient is in seclusion and/or behavioral restraints and restored once it is discontinued.

Aftercare/ Discharge Policies and Procedures

1. To ensure that discharge planning begins upon a person's admission to the facility

2. Regarding an assessment of present level of functioning, including the person's capacity to self-provide food, clothing, shelter, personal safety, or necessary medical care

3. Regarding diagnosis, including treatment initiated, medications, and dosage schedules

4. Describing the specific programs and services required so the person can minimize future confinement and receive the treatment in the least restrictive setting

5. Regarding the identification of the mental health personnel responsible for the aftercare needs

6. To ensure referral and assistance in contacting providers of public social services, legal aid, educational, and vocational services

7. Procedures for referring discharged patients to narcotic treatment programs, community health centers, or other providers of medications for addiction treatment (if applicable)

8. Procedures in compliance with nationally accepted accreditation standards to reduce the risk of suicide, including, but not limited to developing a safety plan with patients at risk for suicide, and following written policies and procedures addressing the care, counseling, and follow-up care at discharge for patients at risk for suicide

9. To ensure that if the patient is homeless, arrangements have been attempted for the

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voluntary placement of the person in a living environment suitable to his or her needs

10. To ensure the facility makes a copy of the written plan available to the patient and their designated support person (if applicable)

11. Describing discharges pursuant to court hearing or discharges Against Medical Advice (AMA)

12. Discharge planning contains the required Model Care Coordination Plan (MCCP) Required Elements of WIC § 5402.5

13. Regarding routine discharge activities (i.e. return of property, transportation, follow-up care scheduling)

Policies and Procedures Related to Minors

1. A designated facility shall only admit minors if it has specifically been designated to do so and it implements a treatment program specifically designed for minors

2. A designated facility that admits both minors and adults shall house minors and adults in specific separate housing arrangements.

3. Specification of educational or training needs, provided these needs are necessary for the minor's well-being

4. Facility obtains the necessary legal consents for admission, medication, medical treatment, etc., from the legally responsible adult

5. Facility adheres to and demonstrates a knowledge of administrative and legal procedures for admission of minors to acute care psychiatric hospital treatment

6. The facility makes every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained and to involve them in the clinical evaluation and treatment

7. When additional treatment is determined to be necessary, a written mental health treatment plan is completed which identifies the least restrictive placement alternative in which the minor can receive the necessary treatment

8. The facility consults with the minor's family, legal guardian, or caretaker to obtain

further needed consents and consults regarding discharge planning and aftercare

9. Clinical evaluations include a psychosocial evaluation of the family and living environment

10. Notification of proper authorities and disposition of minor if the minor's parent, legal guardian or caretaker is unwilling or unable to accept physical custody of the minor upon release

11. Emancipated minors, married minors, and minors who are or have been in armed services are treated as adults

12. Responsible party may not limit the minor's exercise of rights including phone calls and visitors with noted exceptions for minors under the jurisdiction of the Department of Justice, Department of Corrections, or detained primarily pursuant to the jurisdiction of state or federal law enforcement

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Physical Environment

1. All behavioral health units shall be maintained in a manner that ensures patient areas are safe, clean, and comfortable while meeting the clinical and physical needs of the patients.

2. The physical plant shall meet the structural standards provided in CCR, Title 24, as evidenced by the latest approval from State Licensing (if applicable)

3. The facility shall provide a safe, accessible, and secure outdoor area for patient use.

4. Each behavioral health unit shall have at least one room specifically designated for the use of patient seclusion and/or behavioral restraints.

5. The facility's plant shall have a fire clearance (42 CFR § 482.41) that has been completed within 1 year.

6. The facility will maintain a sketch of the facility and its designated areas, including a floor plan depicting the designated areas of the facility and beds, including for minors and adults, if applicable.

7. The facility's physical plant shall allow for individual indoor storage space for each patient.

8. Telephones shall be available for patient use in locations and for periods of time that allow patient access and ensure confidential conversations.

9. The patient bathrooms shall ensure the maximum amount of patient privacy and dignity while ensuring patient safety.

10. The facility shall provide space for patients to receive visitors in an atmosphere that affords privacy but allows for patient safety.

11. A facility treating minor patients shall ensure they are housed in a separate unit away from the adult population (WIC §§ 5585.55 and 5751.7).

12. The facility shall provide adequate space and staff to ensure that all facility-based hearings can be conducted without interruption, in an atmosphere that affords privacy and ensures confidentiality and safety.

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13. Patients' Rights posters and other required Beneficiary Rights materials shall be in visible and prominent places in the facility (WIC § 5325).

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Documentation and Treatment Guidelines

The designated facility participates in quality improvement activities, including documentation, data collection, and quarterly reporting, using approved State-mandated forms, as specified by BHS.

1. Data Collection

    a. Monthly denial of rights and seclusion and behavioral restraints data from contracted LPS facilities is submitted to BHS

    b. Number of patients denied each specified type of right or placed in seclusion and/or restraint, number of days each patient was admitted to the facility, and number of days each patient was denied a specified type of right, or was in seclusion and/or behavioral restraint.

2. Reports

    a. Quarterly Report on Services Provided to Persons Detained in Jail Facilities

        i. Number of persons who were evaluated and/or treated in inpatient services within a jail facility
        ii. Number of admissions to an LPS jail inpatient mental health program

    b. Quarterly Report on Involuntary Detentions - Number of persons either detained or admitted:
        i. Detainments and Admissions for 72-hour evaluation and treatment
        ii. Certifications for 14-Day Intensive Treatment
        iii. Additional 14-Day Intensive Treatment for suicidal persons
        iv. Certifications for 30-Day Intensive Treatment
        v. Number of 180-day Post-Certification Treatments
        vi. Conservatorships - Temporary and Permanent
        vii. Transferred Pursuant to Penal Code Section 4011.6.

    c. Electroconvulsive Therapy Treatments Administered – Quarterly Report
        i. Number of patients receiving treatment
        ii. Total treatments given
        iii. Complications attributable to treatment

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iv. Total number of excessive treatments given
v. Requests for and Review Committee decision on, excessive treatment

d. Mental Health Rehabilitation Center (MHRC) license reports
   i. Denial of Rights—County Summary
   ii. List of Facilities by type and bed capacity
   iii. Number of patients denied rights
   iv. Number of days each right was denied and number of days of seclusion/restraint
   v. Total summary of days rights denied and total days of seclusions and restraints
   vi. Total number of patient days
   vii. Percentage frequency of denial of rights

3. The facility shall ensure that initial assessments of referred patients are completed regardless of ability to pay.

4. Psychiatric assessments of voluntary and involuntary patients shall include documentation substantiating the need for current treatment and level of care and shall be completed within 24 hours by the attending practitioner.

5. Authorized members of the professional staff who initiate involuntary detentions shall participate in the care and treatment of the patients for whom they initiate 72-hour holds (inclusive of participation in treatment planning), pursuant to WIC § 5150 and 9 CCR § 823.

6. The facility shall ensure that patients and their support person (if applicable) are appropriately involved in planning their care and treatment, as evidenced by documentation of patient participation in treatment planning.

7. The facility shall ensure that patients' medical problems are identified, addressed, and documented in assessments and treatment plans.

8. The facility shall meet BHS requirements for application and referral of clients to petition for establishment of LPS conservatorships and/or the Community Assistance, Recovery, and Empowerment (CARE) Act.

9. The facility shall ensure that the attending practitioners are present and testify at all legal hearings for which their attendance is required by the Court (e.g., writs, LPS conservatorship hearings, and medication capacity hearings), and that treating

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physicians meet all expectations related to communication with, and testimony in, San Diego Superior Court.

10. The facility shall ensure that, upon discharge, patients receive appropriate referrals to community agencies and suitable placement, as evidenced by documentation in the Discharge and Aftercare Plans. Uninsured, non- Medi-Cal patients who need further psychiatric medication shall be discharged with prescriptions for psychiatric medications that are available through BHS uninsured formulary and consistent with the parameters for prescription of psychiatric medication.

11. The facility shall have a mechanism to review medical records on an ongoing basis for completeness and timeliness of information and shall take action to improve the quality and timeliness of documentation that impacts the care of voluntary and involuntary patients.

12. The facility shall establish and maintain a process for appropriately resolving complaints, grievances, and appeals.

13. The facility's professional staff shall establish and maintain a mechanism for proctoring and conducting an ongoing peer review of the knowledge base and competencies of designated professional staff members on involuntary detention procedures and 5150s. Criteria and outcomes of monitoring shall be made available for review by the Director of BHS upon request.

14. A designated facility that is licensed by the State or subject to federal accreditation requirements shall report unusual occurrences to its licensing or accreditation authority in accordance with its applicable licensing or accreditation requirements as well as to the County of San Diego BHS per the Critical Incident Reporting process.

15. However, crisis stabilization units, jail LPS units, and designated facilities approved by the Department under subsection (b)(1)(H) of Section 3 of the LPS Facility Designation Interim Guidelines that are not required to report unusual occurrences to a licensing or oversight authority must notify BHS of all critical incidents/unusual occurrences, within 24 hours of the occurrence and appropriately transmit all documents within the timeframe set forth in the Inpatient Operations Handbook, including:

    a. Cases of communicable diseases reportable under California Code of Regulations Section 2500 of Title 17
    b. Poisonings
    c. Fires

d. Adverse drug reactions
e. Suicide attempts and suicides
f. Homicides
g. Medication errors resulting in serious adverse outcomes
h. Use of physical restraints
i. Deaths of a patient, employee or visitor from unnatural causes
j. Physical or sexual assaults on patients, employees or visitors
k. All instances of patient abuse. For purposes of this requirement, "abuse" means maltreatment, sexual maltreatment, financial maltreatment, sexual exploitation, sex trafficking, solicitation, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering, or deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
l. Serious physical injuries to any person which would require care by a physician
m. Actual or threatened walkout by a staff, or other curtailment of services or interruption of essential services provided by the facility
n. Suspected criminal acts on the premises, by or against patients, employees or visitors
o. Any other occurrence that threatens the welfare, safety, security, or health of patients, staff, or visitors

16. The facility shall establish and maintain a process for determining patient perception of the quality of the clinical treatment process and the satisfaction of individuals served. Data on patient perceptions and satisfaction shall be made available for review by the Director of BHS upon request.

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II. Designation to Take Individuals into Custody Pursuant to LPS Act

General Guidelines Related to Designated Facilities

Facility administration shall maintain a current roster and current credential files of professional staff members who have been privileged and authorized to initiate 72-hour detentions. The foregoing shall be made available on request to representatives of BHS:

1. Continuation of the designation status of the facility shall require that all professional staff of the facility comply with all applicable LPS requirements. These requirements include the limitation of involuntary detention to those individuals who meet LPS criteria and are taken into custody only by members of the professional staff with involuntary detention authority.

2. The facility shall ensure that all designees, whenever exercising or otherwise communicating either orally or in writing about their designation authority or related services, clearly identify their facility affiliation and wear the mandated identification badge in face-to-face interactions.

3. The facility shall ensure that the completed original 5150 detention form is present in the medical record of each involuntarily detained patient. A completed form shall contain, in legible fashion, the signatory's professional discipline, and the facility affiliation under whose authority the involuntary detention was initiated.

4. The facility shall ensure that the involuntary detention authority granted to a member of the professional staff of the designated facility is exercised at that facility only and is in relation to the professional staff member's responsibilities at that facility. In instances where an evaluation for possible involuntary detention is conducted off the facility premises, the authorized professional staff member with mobile response responsibilities shall:

    a. Be an employee or a formal contractor of the designated facility (Exception: Designated Physicians).

    b. Dress and travel in a manner that does not inappropriately attract attention to the individual being assessed.

    c. Complete a face-to-face or telehealth assessment of the client prior to initiating an involuntary detention for that client.

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d. Conduct and document an assessment that considers the full range of available treatment modalities, sites, and providers, and results in the care that best meets the client's specific needs. Assessment of need is based upon condition, treatment needs, geography, and current fiscal and treatment relationships with providers. The care should be rendered without regard to profit or gain by the designee's parent facility

e. Have available a comprehensive and current referral source list and be well versed in all relevant treatment resources in the client's area.

f. Honor the preference of the client and/or the parent of a minor, conservator, or legal guardian for the type and location of the desired treatment facility if administratively feasible and clinically appropriate.

g. Unless prohibited by specific circumstances, seek information from and involve the client's current providers of mental health care in order to support continuity of care.

h. Represent themselves to the public as affiliated with the facility from which they derive their designation authority.

i. Strongly consider the proximity of the designated facility to the patient's own community, family and support system. Alternatives to taking a patient to a more distant facility should be considered and documented on the off-site assessment form.

j. Ensure that proper interventions and/or treatment are provided to the client for whom they have initiated LPS evaluation until appropriate disposition is affected (e.g. one-to-one monitoring, removal of contraband.)

k. Give detainment advisements to each client in a language or modality that the client can understand, pursuant to WIC § 5157, inclusive of the name of the facility to which the client is being taken, and notification that the person is not under criminal arrest but is being taken for examination by mental health professionals.

l. Follow all statutory requirements regarding client confidentiality.

m. Maintain an accurate log of all requests for the facility staff's off-premises services. Such log shall be available for inspection by the Patients' Rights Office

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and/or other designees of the Director of BHS and shall include:

i. Date and time of both request and response
ii. Referral source
iii. Name of client
iv. Time of intervention and departure
v. Completion of a written assessment of client, including consideration of less-restrictive alternatives
vi. Services provided and/or referrals made
vii. Disposition of the client
viii. Name of staff involved
ix. A copy of the 72-hour hold if initiated
x. Source of payment

n. Take reasonable precautions to preserve and safeguard the patient's property, pursuant to WIC §§ 5156 and 5211.

o. Initiate 72-hour holds only within the boundaries of San Diego County, unless special written designation authority or an exception has been granted by the County Mental Health Directors involved allowing for cross-county designation privileges.

p. Initiate involuntary detentions only for persons who, based on the authorized staff member's professional assessment, are believed to be dangerous to self or others or gravely disabled because of a mental disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder and are judged to be unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

q. Abide by all provisions in the WIC, Division 5, and accompanying regulations, and Mental Health Services policies regarding treatment, evaluations, patients' rights, and due process.

r. When the client does not meet criteria for involuntary detention, provide the client with information, referral to appropriate community services, and/or other intervention as appropriate to his/her circumstances.

s. Report conditions of abuse or neglect at residential facilities, such as suspected or possible unsafe and unsanitary living conditions, involving elder or dependent adults and children, to the appropriate agencies per WIC § 15630(a)

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5. The facility shall have at least one privileged professional staff member, who can be a Qualified Medical Professional (QMP), with 5150 authority present within one hour for on-site assessment of individuals considered for involuntary detention and/or admission.

6. The facility shall have the ability to safely detain an individual pending 5150 assessment for up to one hour on-site pending the arrival of an authorized professional staff member.

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III. Initial Facility Designation

Procedures

1. The facility requesting designation notifies the Director of BHS who notifies his appointee, the BHS LPS Designation Review Coordinator (LPS Coordinator). The LPS Coordinator then sends an informational packet to the facility delineating the criteria and procedures for LPS designation, along with an application and attestation to be completed by the facility. Along with the application, the LPS Coordinator sends the facility a copy of the LPS Tool so that the facility can begin working on their policies and procedures.

2. The facility requesting designation will submit the completed application and supporting materials to the BHS LPS Coordinator, including:

    a. A written program statement and supporting documentation meeting the requirements of the most recent DHCS LPS guidance and regulations, which includes:

        i. Job descriptions, daily staffing schedules, copies or verifications of professional licenses and credentials, as applicable, for the professional person in charge of the facility, nursing head of service, behavioral health physicians, behavioral health professionals, licensed nursing staff, and behavioral health personnel

        ii. Documentation that the professional person in charge of the facility and the nursing head of service, and their designees are qualified in accordance with most recent DHCS LPS guidance and regulations (Staffing Guidelines).

        iii. An organizational chart listing facility staff and staff-to-patient census ratios demonstrating compliance with most recent DHCS LPS guidance and regulations Staffing Standards

        iv. A description of the population admitted by the facility, including age range and genders.

    b. Fire Marshal clearance (dated within 1 year)

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c. Sketch of the facility and its designated areas, including a floor plan depicting the designated areas of the facility and beds, including for minors and adults, if applicable.

d. A copy of the facility's licenses, certifications, or accreditations, as applicable, including licensing, certifying, or accrediting agency or organization and license, certificate, or accreditation number.

3. Referencing the LPS Survey tool, the facility compiles the policies and procedures to show that they are in compliance with the LPS ACT and most recent DHCS LPS guidance and regulations.

4. Once the facility Professional Person in Charge (PPIC) completes the application (including supporting materials outlined in B above) and the policies and procedures as outlined on the LPS survey tool are in place and the facility PPIC believes that the facility meets the LPS designation requirements, he or she submits the application, supporting materials, and policies and procedures (from the LPS survey tool) to the LPS Coordinator, who arranges for an on-site survey visit. The facility should submit the policies and procedures to the LPS Coordinator approximately one month prior to the on-site survey visit so that the LPS Coordinator and Patients' Rights Advocates have time to review them in advance of the on-site survey visit.

5. Representatives of County of San Diego BHS, including Patients' Rights Advocates and BHS Quality Assurance staff, shall conduct an on-site survey review of the facility (including the physical plant, staffing, policies and procedures, and credentials files) for compliance with the LPS ACT and most recent DHCS LPS guidance and regulations. . If the facility is already LPS designated, the survey also includes an examination of treatment charts selected by the facility representatives (based on instructions of what chart types are needed to be reviewed) and voluntary interviews with selected patients and staff. For currently designated facilities, the representatives also review mental health facility licensing reports, patient complaint logs and the facility's denial of rights, seclusion and behavioral restraint, involuntary holds reports, and grievance logs on file with BHS. At the time of the on-site survey visit, if so requested, the facility provides the survey team with a copy of their , governing body and medical staff bylaws, Performance Improvement and Utilization Review Plans, a verification of 24-hour admitting capacity/availability of 5150 designated staff, type of staff and management (directly operated or by contract), treatment schedules, resumes for all staff, and program descriptions. At the time of the visit, the facility also provides the survey team with access to appropriate meeting minutes, manuals (Administrative, Nursing, Program, Safety/Risk Management), orientation and in-service records, and

contracts/agreements related to off-site mobile response individuals and/or teams (if applicable).

6. If the facility's physical plant has not yet opened at the time of the on-site review, the LPS designation authority may still be granted based on physical plant, staffing, licensure, policies and procedures (inclusive of Bylaws, Manuals and Plans), and credentials evaluations. Facility will be given LPS designation authority based on Section E above. Within three months after the designation, the LPS Coordinator will complete an examination of treatment records, patient and staff interviews, and in-service records (add rest of above) to ensure compliance with the LPS Act and most recent DHCS LPS guidance and regulations.

7. If the facility is found to be in compliance with the LPS ACT and most recent DHCS LPS guidance and regulations, the LPS Coordinator shall submit a written report to the Director of BHS with the recommendation that the facility be designated.

    a. If LPS Survey Team members find that a facility is not in compliance with LPS guidelines and criteria, they shall inform the facility and the Director of BHS and make specific recommendations for compliance. A return on-site visit is scheduled once the facility notifies the LPS Coordinator that the recommendations have been implemented.

    b. If the LPS Survey Team determines that the facility is not in compliance with the LPS designation criteria and the facility disagrees, the facility may, if it chooses, present information and/or arguments directly to the Director of BHS. When the Director of BHS finds, based on all available information, that the facility meets all guidelines and criteria specified for LPS designation, including the LPS Act and most recent DHCS LPS guidance and regulations, the Director of BHS may, as delegate of the San Diego County Board of Supervisors, recommend the facility for initial or continued LPS designation to be approved by DHCS.

8. The Director of BHS signs the attestation on the Application for Facility Approval or Renewal of Approval once he or she determines that the facility meets all of the requirements outlined on the application. The Director of BHS shall forward a completed copy of the DHCS Application for Facility Designation Approval or Renewal of Approval along with the supporting materials. DHCS has up to 30 calendar days to acknowledge that the packet has been received and is complete and accepted for review or incomplete. If DHCS determines information is missing, the Director of BHS has 30 calendar days to submit the missing information. If DHCS determines the application is complete, they

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have 60 calendar days to respond with their approval or denial of the application for designation.

9. DHCS will notify the Director of BHS of the approval of the designation. The LPS Coordinator notifies the Facility Director in writing of the designation decision and will issue LPS Designation 3-year designation certificates that are signed by the Director of BHS.

10. The Director of BHS or designee notifies the Court Executive Officer of the LPS designation by sending the Certificate Letter signed by the BHS Director, the approval letter from DHCS and the facility procedural information related to 5250 hearings.

11. If DHCS denies an application for approval or renewal of approval of a facility designation, affirms a denial on review, or revokes its approval of a facility designation, the BHS Director or designee shall:

    a. Terminate the facility's designation

    b. Not resubmit an application for approval of that facility until at least 30 calendar days after the effective date of DHCS's action. Any updated application that is submitted shall demonstrate the deficiencies identified by DHCS were corrected prior to resubmission.

12. Prior to the facility's exercising its designation authority, an administrator shall request access to the digital provider 5150 certification examination. The administrator shall distribute the digital examination information to all individuals involved in the involuntary evaluation and detention process. All individuals involved in the involuntary detention process shall review the San Diego County approved 5150 manual to take and receive a passing score on the provider 5150 certification examination prior to initiating any 5150 detentions. Upon achieving a passing score on the examination, the provider shall receive a digital certificate indicating they have received the San Diego County approved training on LPS statutes and County policies and procedures concerning involuntary detention, as well as patients' rights.

13. DHCS approval of a facility designation is not transferable to a new or different license or certification. If a facility will operate under a different license or certification that was previously approved, then the facility will need to submit a new application for facility designation to the County BHS Director (who will then submit it to DHCS for approval).

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IV. Facility Periodic Review

Each San Diego County LPS site will be routinely reviewed during a three-year period to ensure that all LPS requirements continue to be met. Each facility is subject to redesignation requirements under the most recent DHCS LPS guidance and regulations, which require reapplication for designation approval during the transition period and upon expiration every 3 years. This supersedes the prior December 6, 1994 San Diego County Board of Supervisors resolution, which provided that LPS facilities retained designation without redesignation absent exigent circumstances, and is retained here solely for historical reference.

Procedures

1. Prior to the facility's redesignation due date, the LPS Coordinator sends an informational packet to each facility being reviewed in a single Fiscal Year, delineating the criteria and procedures for LPS review and requesting an on-site visit. The informational packet will include a copy of the DHCS Application, which will need to be completed by the facility and submitted along with the policies and procedures at least 30 days prior to the on-site survey visit.

2. The Facility Director, LPS Coordinator, and Patients' Rights Advocates arrange for an on-site visit.

3. Under the auspices of the Director of BHS, the LPS Designation Review Committee conducts a review of each designated facility to assess compliance with LPS designation guidelines and criteria. Such review may encompass a tour of the patient units, survey of open and closed treatment charts selected by the reviewers, voluntary interviews with clients, review of facility feedback survey (if applicable), examination of policies, procedures, manuals, plans, minutes, and contracts, and discussion with facility staff. In preparation for the visit, the reviewers may examine: recommendations from the prior LPS designation survey(s); the facility's denial of rights, seclusion and restraint, 72-hour holds, minors' due process hearings, ECT administration (if any) monthly and quarterly data collection; Accreditation Surveys (TJC) and Health Facilities Licensing reports; and any other relevant reports on file with the Patients' Rights Advocacy Team regarding the facility.

4. The reviewers apprise facility staff of their findings orally at the conclusion of the visit and in writing via a preliminary draft of findings within one week after the conclusion of the visit. The preliminary draft cites specific areas of compliance and noncompliance and makes recommendations for remedial action where indicated. The facility must

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submit supporting evidence showing compliance prior to 90 days of their current LPS Designation expiration date. After reviewing the supporting evidence that was submitted by the facility, Reviewers send a final report of findings. Reviewers may either make the recommendation for the facility's continued designation to the BHS Director or reviewers may also ask for a specific plan of correction to address areas of noncompliance, to be submitted within 30 days of report receipt or as otherwise directed.

5. Once the BHS Director agrees that a facility is in compliance and continued designation is recommended, the BHS Director and/or LPS Coordinator shall submit a new designation renewal application at least 90 days before a facility designation approval expiration date. The BHS Director will sign the DHCS Application and forward it along with the supporting documentation to DHCS. DHCS has 30 days to review the application packet for completion who will review the materials and either confer a designation within 60 days or notify the BHS Director of the missing information. The BHS Director has 30 days to provide the missing information, or the request is considered withdrawn.

6. If the reviewers are unable to support continued designation, they may elect to conduct a repeat on-site visit upon their determination that sufficient time has elapsed for the facility to correct identified deficiencies. Gross violation(s) of clinical practice, patients' rights, and/or safety practices relevant to the class of persons for whom designation applies can result in temporary suspension and/or discontinuance of the designation.

7. If the facility fails to correct identified deficiencies, the Director of BHS takes appropriate remedial action up to and including termination of the facility's designation.

8. The facility is notified in writing of the above action.

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V. Withdrawal of Designation and Reinstatement of Designation

Circumstances Under Which the County of San Diego, Director of Behavioral Health Services May Withdraw Designation of a Facility

1. Gross violation and/or ongoing violations of clinical practice, patients' rights, quality of care, and/or safety precautions relevant to the class of persons to whom designation applies

2. Failure to comply with the terms and ethical provisions of law and BHS policies regarding constitutional, statutory, regulatory and decisional law, including but not limited to WIC, Division 5; CCR, Titles 9 and 22; and the Business and Professions Code, Section 650, concerning compensation for referrals

3. Repeated failure to verify and submit for authorization only fully qualified individuals; failure to assure that LPS designated staff are appropriately monitored and supervised; and/or that its representatives exercise the involuntary detention and treatment authority in accordance with established BHS guidelines and legal requirements

4. Failure to allow the Director of BHS or designees to review the facility for designation or complaint resolution processes, including access to specified patients, staff, and records to establish compliance with San Diego County LPS guidelines and regulations.

5. Failure to correct circumstances within specified timelines.

6. Failure to truthfully disclose the material support provided to members of the authorized professional staff concerning off-site evaluation and detention activities or to ensure the support is in accordance with all applicable designation regulations.

7. DHCS designation of a facility is dependent on maintenance of an active license (except for Jail LPS units), Medi-Cal Certifications for CSU's, or active health care accreditations for VA hospitals. DHCS LPS designation automatically terminates on the date of termination or revocation of the license, certification, accreditation, or San Diego County termination of designation.

8. Designation of the facility may be withdrawn/cease if the facility has not detained

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patients on an involuntary basis pursuant to the WIC §§ 5150 and/or 5152 for a period of three years.

9. When, in the judgment of the Director of BHS, withdrawal of designation is required by community needs.

10. At any time, with or without prior notice, DHCS may investigate a designated facility's site and its records, including medical records, to determine if San Diego County BHS is in compliance with the LPS Act and the standards in Article 3 of the most recent DHCS LPS guidance and regulations. . The designated facility shall cooperate with the inspection, including providing DHCS will all information and documents requested and making staff and patients available for interviews. All requested information and documents should be provided by the requested timeline. If the facility fails to be in compliance with the standards, DHCS will notify the San Diego County BHS Director.

DHCS Revocation of Approval of Facility Designation

1. DHCS may revoke its approval of a facility designation if it finds noncompliance with the LPS Act or with the most recent DHCS LPS guidance and regulations.

2. At least 30 days before the revocation effective date, DHCS shall notify the BHS Director in writing, including the basis for the revocation and the revocation effective date. If DHCS finds that the failure to comply with the LPS Act or most recent DHCS LPS guidance and regulations causes immediate risk of harm to the welfare, safety, or health of patients, staff, visitors, then the designation can be revoked with five calendar days' notice.

3. To request a review of revocation of approval of a facility designation, the County Behavioral Health Director shall submit a written request by certified mail or email to DHCS within 30 calendar days of the date of the revocation notice. DHCS may decline to review an untimely request. A request for review shall include all of the information, arguments, and supporting documentation that County BHS wishes to provide. DHCS shall issue a final written decision within 120 calendar days of receiving the County BHS request for review. DHCS may stay the effective date of revocation while the revocation is under review. The facility designation shall automatically terminate on the effective date of revocation of approval, or if the effective date is stayed, on the date of DHCS's final decision.

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Circumstances Under Which the County of San Diego, Director of Behavioral Health Services May Require a Corrective Action Plan

San Diego County BHS may issue a corrective action plan when an area of significant concern has been identified, including but not limited to:

1. Failure to ensure that all rights guaranteed to mental health patients by statutes and regulations are adhered to, including proper initiation and implementation of rights to administrative and judicial reviews, hearings, and writs.

2. Improper use of seclusion or behavioral restraint, including failure to routinely utilize preventive alternative interventions and/or to follow 9 CCR § 865.4, applicable provisions of CCR Title 22 (such as § 71545 for acute psychiatric hospitals and § 77103 for psychiatric health facilities), or Health and Safety Code, Division 1.5 (commencing with Section 1180-1180.6) requirements for seclusion and behavioral restraint orders, use, and monitoring.

3. Occurrence of significant quality of care or safety issues or critical incidents requiring BHS investigation and prompt corrective action by the facility.

4. Failure to meet documentation and treatment guidelines by established deadlines.

5. Failure to notify BHS of an adverse event(s) or to submit reports as required by BHS within required timelines

6. Failure to provide whatever mental health treatment, care, and referrals involuntarily detained persons require for the full period that they are held.

7. Failure to notify BHS of any changes that may affect its conformance with the criteria for designation.

Procedures Following the Withdrawal of the LPS Designation of a Facility

Except as described below in respect to emergencies, the Director of BHS shall notify the facility of his or her intention not less than 30 days in advance of taking the action. The notification will specify the reasons for which the action is being taken.

1. The facility may submit to the Director of BHS a written request for review within 14 days of receiving the notice of intention. In support of its written request, the

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facility may submit written documentation or other proof contradicting the specification made in the notice of intention. If the facility wishes to make an oral presentation or present witnesses to controvert the specifications in the notice of intention, its written request may also include a request for a meeting at which such oral presentation can be made

2. If a request for a meeting or an oral presentation is made, the meeting shall be held not less than five or more than ten days from the date on which the facility requested the review. In no event shall the meeting take place more than 25 days after the notice of intent to withdraw the designation was received by the facility.

3. The meeting at which the facility makes its oral presentation shall be attended by the Director of BHS or designee and such other representatives as designated by the Director of BHS; the names of such representatives will be given in writing to the facility administrator. The meeting may be attended by the Professional Person in Charge (PPIC) and Chief Medical Officer and such others as they designate in writing to the Director of BHS. The facility may make oral presentations that are pertinent to the specifications contained in the notice of intent. A reasonable period of time, as determined by the Director of BHS or designee, shall be permitted for the facility's oral presentation.

4. The Director of BHS shall consider all written, oral and other information submitted by the facility. The Director of BHS shall notify the facility in writing of his or her final decision not later than 29 days from the facility's receipt of the BHS notice of intention.

Suspension of a Facility's LPS Designation

1. If, in the judgement of the Director of BHS, an emergency or threat of harm to consumers exists, the authority of the facility to involuntarily detain or treat under the LPS Act or the approval of a designated facility's designation of an individual may be suspended.

2. Such a suspension may be made while the notice of intention to apply for LPS designation is in process, as described above, or for such periods of time during which the Director of BHS judges the emergency or threat to exist.

3. The facility may request a review immediately or within 14 days of receiving the written notice of emergency suspension, such review to be held within three working days from the date on which the facility requested the review, unless

another mutually agreeable time, not to exceed 14 days from the date on which the facility requested the review, is set.

Procedures Following an LPS Designation Faculty's Request to Opt Out Voluntarily From LPS Designation

1. The LPS designated facility shall notify the Director of BHS of their intention not less than 60 days in advance of taking the action. The notification will specify the reasons for which the action is being taken.

2. The Director of BHS will review the request within 15 days and will notify the facility that he or she has received the request.

3. The Director of BHS shall consider all written, oral and other information submitted by the facility. The Director of BHS shall notify the facility in writing of his or her final decision not later than 29 days from the Director's receipt of the notice of intention.

DRAFT