

Frequently Asked Questions about The Legal Holds System

“WHEN DO I GET TO LEAVE?”

No one person decides when you will be discharged. It is a team decision. The treatment team, which is made up of the psychiatrists, social workers, nursing staff and rehab staff, meet every morning (M-F) at 9:00 AM to assess readiness for discharge by discussing how each client is doing based on your peer and staff interactions and your self-report.

“You are on a 5150 hold, which means legally you might have to stay here for up to 72 hours (starting from the time the hold was written before you came here). One of three things can happen before your hold expires: 1. The treatment team could decide that you don’t require further treatment and could discharge you. 2. The treatment team and you could discuss how remaining here in the hospital could be helpful for you, with you agreeing to a voluntary status to stay in the hospital to work with the treatment team or 3. The treatment team may be concerned for your welfare which could result in staying longer than the 72 hours. At that point, you could be placed on a 5250.

A 5250 is a hold up to an additional 14 days. People usually stay five to six days total, but **everyone’s stay is different**, it depends on your needs and how we can help you while you are here. We can’t tell you exactly when you will be discharged because **we take it day by day**.

If you are placed on a 5250 and you feel that you don’t need to be here, you have a right to a hearing to contest the hold. These hearings take place here at the hospital on Tuesday and Friday mornings. You will have a patient advocate to explain your legal rights to you and help represent you during the hearing. You can find more information about this and other legal questions in the “Rights for Individuals in Mental Health Facilities” handbook that was given to you in your information folder when you first got here. The Patient’s Rights Advocates visit every day. We support your right to call them at any time using the free payphone, dial 1(800) 734-2504.

“HOW WILL THE TREATMENT TEAM KNOW I AM READY TO LEAVE?”

Some of the things that the treatment team considers when deciding if you are ready to leave the hospital is:

1. How you are reporting that you are feeling.
2. Are you taking care of yourself – for example, are you eating, are you getting enough sleeping, are you taking a shower, etc.?
3. Are you participating in your treatment by meeting with the doctor every day and going to groups?
4. Are you taking your medications (if they are prescribed for you)?
5. Are you working with your social worker to involve friends and/or family with your safety, treatment and discharge plans?
6. Are you engaging in self-harming behaviors?
7. Have you been threatening or assaultive to other clients or staff?

“IT FEELS LIKE I AM NEVER GOING TO GET TO LEAVE”

NO ONE STAYS HERE FOREVER. WE ARE A SHORT-TERM HOSPITAL. OUR MAIN GOAL IS TO ADDRESS ANY CRISIS YOU MAY BE EXPERIENCING AND HELP YOU TO GET BACK TO YOUR LIFE AS QUICKLY AND SAFELY AS POSSIBLE.

When you are ready to leave the hospital, we usually send you home with a week’s worth of medication in a hand and a script to have your medications refilled. The social worker will make sure that you have a follow-up appointment (in writing) at Kaiser. We also will work with you and your support system to set up a convenient discharge time.

“I AGREED TO STAY VOLUNTARILY, BUT NOW I WOULD LIKE TO LEAVE”

“Even though you are on a voluntary status, **there is still a discharge process we have to follow. We have 24 hours after you request to leave to plan a safe discharge.** We will make every effort to get you out as quickly as possible. The doctor may want to meet with you again to assess you before he signs off on your discharge. Also, we need to make sure you have access to your medications either by sending you home with a week’s worth of meds in hand or at least a script to have your medications refilled. The social worker also needs to make sure that you have a follow-up appointment scheduled for you at Kaiser.”

The Legal Holds System

5150: A hold up to 72 hours of a client admitted against their will because they were considered to be either an imminent danger to themselves (DTS), or an imminent danger to others (DTO) and/or gravely disabled (GD - that is, unable to provide for food, clothing or shelter) **and** they are unable or unwilling to accept voluntary treatment.

The client has the right to be released after 72 hours, unless the treatment team can establish that the client needs additional psychiatric treatment. A decision must be made by the treating psychiatrist in collaboration with the treatment team during and prior to the expiration of the 72 hours whether the client:

1. should be released as no longer requiring evaluation and treatment,
2. remain at the facility accepting evaluation and treatment on a voluntary basis, or
3. Should be certified for 14 days evaluation and treatment (5250).

Voluntary Status ("Vol"): This is when the treatment team has determined that the client has the capacity to make their own decisions and are able and willing to accept voluntary treatment. The hold is dropped once the appropriate voluntary forms are signed and witnessed, and a physician's order is obtained to "change legal status to voluntary". A client on a voluntary status:

1. may be restrained and/or secluded against his/her will **only** in case of emergency,
2. shall never be given medications against his/her will, except in case of emergency, and
3. Has the right to discharge themselves with or without medical approval, in which case the policy and procedure for Against Medical Advice (AMA) discharge shall be followed.

5250: A hold up to an additional 14 days based on a hearing called "probable cause." The requirements of this hold remain the same – the client is considered to be either DTS, DTO and/or GD.

Probable Cause Hearings are scheduled for every person who is placed on a 5250 (regardless if they are contesting their hold or not). A probable cause hearing is an administrative hearing conducted by an officer of the court to determine if there is probable cause to hold an individual. The probable cause hearing takes place at Telecare Heritage PHF on Tuesdays and Fridays. A patient advocate represents the client, the client may be present during the hearing if they so wish and a social worker represent the hospital by reading from both the chart and Avatar notes to present the diagnosis and describe the client's behavior that documents the diagnosis and justifies the certification.

If probable cause has not been found (e.g., the client wins the hearing), the psychiatrist shall either have the client sign in Vol or the client must be discharged Against Medical Advice (AMA) by order of the court.

If the client does not win the hearing, they have the right to request to go to court for a *Writ of Habeas Corpus* if they continue to want to be discharged. These hearings take place at the Superior Court located at the John George campus in San Leandro on Tuesdays and Fridays.

If the treatment team determines that the client still meets the criteria for gravely disabled, a Temporary Conservatorship may be initiated. This usually needs to be done 5 days before the expiration of the 14-day certification (although the time frame is different for every county).

LPS Temporary Conservatorship (T-Con): A hold up to an additional 30 days during which time the court authorizes an investigation to determine if client is gravely disabled and in need of Conservatorship **and** a member from the Office of the Public Guardian has authority over the client (serves as the temporary conservator) and is responsible for investigating the need for a permanent conservatorship. The court may also extend the temporary Conservatorship at the end of the initial 30 days not to exceed 180 days. **A conservator may authorize psychiatric treatment/detention, give authorization for use of psychiatric medication regardless of the wishes of the client and determine where and in what situation the client lives.**

Permanent Conservatorship: A permanent LPS conservatorship lasts for a year but may be renewed. A permanent conservator has the same authority as a temporary conservator.