

W&I Section 5250 and Related Codes

5250. If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section 5200) or Article 3 (commencing with Section 5225) and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental health disorder or impairment by chronic alcoholism, under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of a mental health disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment is designated by the county to provide intensive treatment, and agrees to admit the person. No facility shall be designated to provide intensive treatment unless it complies with the certification review hearing required by this article. The procedures shall be described in the county Short-Doyle plan as required by Section 5651.3.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

(d) (1) notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist a person with a mental health disorder in providing for the person's basic needs for food, clothing, or shelter.

5250.1. The professional person in charge of a facility providing intensive treatment, pursuant to Section 5250 or 5270.15, or that person's designee, shall notify the county mental health director, or the director's designee, and the peace officer who made the original written application for 72-hour

evaluation pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, that the person admitted pursuant to the application has been released unconditionally if all of the following conditions apply:

(a) The peace officer has requested notification at the time he or she makes the application for 72-hour evaluation.

(b) The peace officer has certified in writing at the time he or she made the application that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(c) The notice is limited to the person's name, address, date of admission for 72-hour evaluation, date of certification for intensive treatment, and date of release. If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

5251. For a person to be certified under this article, a notice of certification shall be signed by two people. The first person shall be the professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

The second person shall be a physician or psychologist who participated in the evaluation. The physician shall be, if possible, a board certified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

If the professional person in charge, or his or her designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a licensed clinical social worker or a registered nurse who participated in the evaluation shall sign the notice of certification.

5252. A notice of certification is required for all persons certified for intensive treatment pursuant to Section 5250 or 5270.15, and shall be in substantially the following form (strike out inapplicable section):

The authorized agency providing evaluation services in the County of _____ has evaluated the condition of:

Name _____
Address _____
Age _____
Sex _____
Marital status _____

We the undersigned allege that the above-named person is, as a result of mental disorder or impairment by chronic alcoholism:

- (1) A danger to others.
- (2) A danger to himself or herself.
- (3) Gravely disabled as defined in paragraph (1) of subdivision (h) or subdivision (l) of Section 5008 of the Welfare and Institutions Code. The specific facts which form the basis for our opinion that the above-named person meets one or more of the classifications indicated above are as follows:

(Certifying persons to fill in blanks) _____

(Strike out all inapplicable classifications.)

The above-named person has been informed of this evaluation, and has been advised of the need for, but has not been able or willing to accept treatment on a voluntary basis, or to accept referral to, the following services:

We, therefore, certify the above-named person to receive intensive treatment related to the mental disorder or impairment by chronic alcoholism beginning this ____ day of _____, 19__, in (Month) the intensive treatment facility herein named _____.

_____(Date)

Signed _____

Signed _____

Countersigned _____

(Representing facility)

I hereby state that I delivered a copy of this notice this day to the above-named person and that I informed him or her that unless judicial review is requested a certification review hearing will be held within four days of the date on which the person is certified for a period of intensive treatment and that an attorney or advocate will visit him or her to provide assistance in preparing for the hearing or to answer questions regarding his or her commitment or to provide other assistance. The court has been notified of this certification on this day.

Signed_____

5253. A copy of the certification notice shall be personally delivered to the person certified, the person's attorney, or the attorney or advocate designated in Section 5252. The person certified shall also be asked to designate any person who is to be sent a copy of the certification notice. If the person certified is incapable of making this designation at the time of certification, he or she shall be asked to designate a person as soon as he or she is capable.

5254. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person certified that he or she is entitled to a certification review hearing, to be held within four days of the date on which the person is certified for a period of intensive treatment in accordance with Section 5256 unless judicial review is requested, to determine whether or not probable cause exists to detain the person for intensive treatment related to the mental disorder or impairment by chronic alcoholism. The person certified shall be informed of his or her rights with respect to the hearing, including the right to the assistance of another person to prepare for the hearing or to answer other questions and concerns regarding his or her involuntary detention or both.

5254.1. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person certified of his or her legal right to a judicial review by habeas corpus, and shall explain that term to the person certified, and inform the person of his or her right to counsel, including court-appointed counsel pursuant to Section 5276.

5255. As soon after the certification as practicable, an attorney or patient advocate shall meet with the person certified to discuss the commitment process and to assist the person in preparing for the certification review

hearing or to answer questions or otherwise assist the person as is appropriate.

5256. When a person is certified for intensive treatment pursuant to Sections 5250 and 5270.15, a certification review hearing shall be held unless judicial review has been requested as provided in Sections 5275 and 5276. The certification review hearing shall be within four days of the date on which the person is certified for a period of intensive treatment unless postponed by request of the person or his or her attorney or advocate. Hearings may be postponed for 48 hours or, in counties with a population of 100,000 or less, until the next regularly scheduled hearing date.

5256.1. The certification review hearing shall be conducted by either a court-appointed commissioner or a referee, or a certification review hearing officer. The certification review hearing officer shall be either a state qualified administrative law hearing officer, a physician and surgeon, a licensed psychologist, a registered nurse, a lawyer, a certified law student, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor. Licensed psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed professional clinical counselors, and registered nurses who serve as certification review hearing officers shall have had a minimum of five years' experience in mental health. Certification review hearing officers shall be selected from a list of eligible persons unanimously approved by a panel composed of the local mental health director, the county public defender, and the county counsel or district attorney designated by the county board of supervisors. No employee of the county mental health program or of any facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation may serve as a certification review hearing officer. The location of the certification review hearing shall be compatible with, and least disruptive of, the treatment being provided to the person certified. In addition, hearings conducted by certification review officers shall be conducted at an appropriate place at the facility where the person certified is receiving treatment.

5256.2. At the certification review hearing, the evidence in support of the certification decision shall be presented by a person designated by the director of the facility. In addition, either the district attorney or the county

counsel may, at his or her discretion, elect to present evidence at the certification review hearing.

5256.3. The person certified shall be present at the certification review hearing unless he or she, with the assistance of his or her attorney or advocate, waives his or her right to be present at a hearing.

5256.4. (a) At the certification review hearing, the person certified shall have the following rights:

(1) Assistance by an attorney or advocate.

(2) To present evidence on his or her own behalf.

(3) To question persons presenting evidence in support of the certification decision.

(4) To make reasonable requests for the attendance of facility employees who have knowledge of, or participated in, the certification decision.

(5) If the person has received medication within 24 hours or such longer period of time as the person conducting the hearing may designate prior to the beginning of the hearing, the person conducting the hearing shall be informed of that fact and of the probable effects of the medication.

(b) The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by participants. The person conducting the hearing shall not be bound by rules of procedure or evidence applicable in judicial proceedings.

(c) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the certification hearing, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

(d) All evidence which is relevant to establishing that the person certified is or is not as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, shall be admitted at the hearing and considered by the hearing officer.

(e) Although resistance to involuntary commitment may be a product of a mental disorder, this resistance shall not, in itself, imply the presence of a mental disorder or constitute evidence that a person meets the criteria of being dangerous to self or others, or gravely disabled.

5256.5. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is not probable cause to believe that

the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person certified may no longer be involuntarily detained. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

5256.6. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is probable cause that the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person may be detained for involuntary care, protection, and treatment related to the mental disorder or impairment by chronic alcoholism pursuant to Sections 5250 and 5270.15.

5256.7. The person certified shall be given oral notification of the decision at the conclusion of the certification review hearing. As soon thereafter as is practicable, the attorney or advocate for the person certified and the director of the facility where the person is receiving treatment shall be provided with a written notification of the decision, which shall include a statement of the evidence relied upon and the reasons for the decision. The attorney or advocate shall notify the person certified of the certification review hearing decision and of his or her rights to file a request for release and to have a hearing on the request before the superior court as set forth in Article 5 (commencing with Section 5275). A copy of the decision and the certification made pursuant to Section 5250 or 5270.15 shall be submitted to the superior court.

5256.8. The requirement that there is a certification review hearing in accordance with this article shall apply only to persons certified for intensive treatment on or after January 1, 1983.

5257. (a) During the period of intensive treatment pursuant to Section 5250 or 5270.15, the person's involuntary detention shall be terminated and the person shall be released only if the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or

examined a person who is undergoing intensive treatment and there is a collaborative treatment relationship between the psychiatrist and the psychologist, either the psychiatrist or psychologist may authorize the release of the person, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who is undergoing intensive treatment, the person may not be released unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released during the designated period of intensive treatment, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released during the period of intensive treatment only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or prevent the facility from providing the person with appropriate referral information concerning mental health services.

(b) A person who has been certified for a period of intensive treatment pursuant to Section 5250 shall be released at the end of 14 days unless the patient either:

- (1) Agrees to receive further treatment on a voluntary basis.
- (2) Is certified for an additional 14 days of intensive treatment pursuant to Article 4.5 commencing with Section 5260).
- (3) Is certified for an additional 30 days of intensive treatment pursuant to Article 4.7 (commencing with Section 5270.10).
- (4) Is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).
- (5) Is the subject of a petition for post certification treatment of a dangerous person filed pursuant to Article 6 (commencing with Section 5300).

(c) The amendments to this section made by Assembly Bill 348 of the 2003-04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

5258. After the involuntary detention has begun, the total period of detention, including intervening periods of voluntary treatment, shall not exceed the total maximum period during which the person could have been detained, if the person had been detained continuously on an involuntary basis, from the time of initial involuntary detention.

5259. Nothing in this article shall prohibit the professional person in charge of a treatment facility, or his or her designee, from permitting a person certified for intensive treatment to leave the facility for short periods during the person's involuntary additional treatment.

5259.1. Any individual who is knowingly and willfully responsible for detaining a person in violation of the provisions of this article is liable to that person in civil damages.

5259.2. Whenever a county designates two or more facilities to provide treatment, and the person to be treated, his or her family, conservator, or guardian expresses a preference for one of these facilities, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

5259.3. (a) Notwithstanding Section 5113, if the provisions of Section 5257 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the professional person designated by the county, the medical director of the facility or his or her designee described in Section 5257, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the professional person designated by the county, the medical director of the facility or his or her designee described in Section 5257, the psychiatrist directly responsible for the person's treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of the 14 days pursuant to this article.

(c) The attorney or advocate representing the person, the missioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for the detainment of the

person shall not be civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

(d) The amendments to this section made by Assembly Bill 348 of the 2003-04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.