

If you have questions about the information in this brochure, contact:

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# PATIENTS' RIGHTS ADVOCACY PROGRAM

## WHAT TO EXPECT ON A 14-DAY HOLD

### What is a 14-Day Involuntary Hold?

During the period of the 72-hour treatment and evaluation and before it ends, you will either be released, allowed to remain in the hospital voluntarily, or placed on a 14-day hold. If your doctor places you on a 14-day hold, it is because he/she believes that you continue to be either a danger to yourself, a danger to others, and/or gravely disabled.

It is called a 14-day hold because you may continue to be hospitalized involuntarily for up to 14 more days. Following this period, your doctor must either release you or change your legal status. Your doctor may release you at anytime during the 14-day hold if you no longer meet the criteria for danger to self, danger to others or gravely disabled.



### How are these terms defined?

There are three criteria for holding a person under the Welfare and Institutions Code Section 5250 (14-day involuntary treatment period) due to a mental disorder. They are:

- 1. Danger to self:** This term means the doctor has reason to believe that you are at risk of harming yourself which could result in serious injury or death. This is often demonstrated by expression of suicidal thoughts, plan and/or intent. Danger to self could also include behaviors that are deliberate or unintentional that likely would result in serious injury or death.
- 2. Danger to others:** This term means that the doctor has reason to believe that you are a danger to others. Example include if you intend to cause harm or have threatened to kill a specific person or persons, or if you express the intention to engage in dangerous acts which are likely to result in the harm or death of another person or persons. Behavior which would indicate a danger to others include verbal and/or physical threats of harm to others, attempts to harm another person or persons, repeated past attempts to harm another person and/or means to carry out any verbal threats.
- 3. Gravely Disabled:** For an adult this term means that the doctor has reason to believe that you are unable to provide for your basic personal needs of food, clothing and shelter. Examples could include refusing to eat, refusing to wear clothing, or refusing shelter to the extent it may cause bodily harm.

A minor is considered to be gravely disabled if he/she is unable to use the elements of life which are considered to be essential for health, safety and development, even if provided by others.

### What Are My Rights If I Am Placed On a 14-Day Hold?

- You keep all your rights listed in the Patients' Rights Handbook except the right to sign yourself out of the hospital.
- You have the right to be informed of your status as an involuntary patient. You will receive a 14-day notice form.
- You have the right to request a Writ of Habeas Corpus. This request will be heard by a judge of the Superior Court. You will receive the assistance of the Public Defender unless you hire your own attorney. If you do request a writ before the Certification Review Hearing, also called a Probable Cause Hearing, you will not receive a Certification Review Hearing. If you do not request a writ, a Certification Review Hearing must be scheduled within four days from the time you were placed on the 14-day hold. If, for some reason, you are unable to participate at the hearing on the day it is scheduled, it can be postponed for up to 48 hours.
- If, at the Certification Review Hearing, the Hearing Officer finds that the reasons for your certification are correct, then your involuntary hospitalization will continue. If you disagree with the decision, you may then request a Writ of Habeas Corpus. If the Hearing Officer finds that there is no probable cause to continue the hold, you will be released from the hold, and you may leave the hospital or agree to continue your treatment on a voluntary basis.
- You keep the right to refuse treatment with antipsychotic medication. You can be medicated without consent, however, if it is an emergency. "Emergency" means that a situation has developed wherein the decision is made to impose treatment over your objections in order to prevent harm to yourself or others.
- A minor may receive treatment when a parent or guardian, or the court gives consent.
- You may also be treated with antipsychotic medication after a court hearing which is called a

Capacity Hearing or Riese Hearing. This hearing is held by a Superior Court judge that determines if you have the capacity to refuse medication. You have the right to legal counsel at the Capacity Hearing, and a Public Defender will represent you, unless you wish to hire a private attorney.

### **What is Certification Review Hearing?**

This hearing is an informal meeting to review the doctor's decision to continue your treatment on the 14-day hold. It is normally held in the same psychiatric hospital you are receiving treatment. It takes place within four days from the time you are placed on a 14-day hold, and its purpose is to review the doctor's decision to keep you in the hospital involuntarily. A neutral person, a Hearing Officer, listens to the hospital representative give reasons why you should stay in the hospital, and then you and your Patients' Rights Advocate will have the opportunity to respond.

### **Why Do I Need a Patients' Rights Advocate?**

The law requires that a Patients' Rights Advocate assist you in preparing for the Certification Review Hearing. On the day of the hearing an Advocate from the Patients' Rights Office will meet with you. The Advocate will be your representative at the hearing, and will ask you questions about what your wishes are regarding your hospitalization. It is the Advocate's duty to represent whatever position you wish to take, either to continue or to terminate your treatment. You are not required to use the services of the Advocate, but he/she can respond to your concerns, and tell you what to expect at the hearing. If you elect to represent yourself without the Advocate's assistance, the Advocate must still be present at the hearing and will be available to you, if you request assistance. You may also choose not to attend the hearing, in which case the Advocate will ask you to sign a waiver of presence form. The hearing will still be held even if you decide not to go.

### **How Does a Writ of Habeas Corpus Work?**

A Writ of Habeas Corpus is a legal request for release from a facility or institution and entitles a person to a hearing in Superior Court. You may request a writ from any staff member. You will be asked to sign your name on the official request form. A court date will be arranged and a Public Defender will come to the hospital to review your medical record and interview you. You will be transported to Superior Court by treatment facility staff on the hearing day. At the hearing, a judge will listen to the hospital representative and you, with the assistance of your attorney and make a decision to continue or terminate your involuntary hospitalization. You may change your mind by contacting a staff member anytime before going to court. If you request the writ before the Certification Review Hearing, and then change your mind, you will be scheduled for a Certification Review Hearing. Please remember, if you request a writ before the Certification Review Hearing you will not receive a Certification Review Hearing. If you wait to request a writ after the Certification Review Hearing, you will receive both the Certification Review Hearing and the writ hearing, thus having two opportunities to review your involuntary status.

### **Who Is Present At The Certification Review Hearing?**

Three people are required to be present at the Certification Review Hearing:

**Hearing Officer:** The Hearing Officer is the neutral person who listens to the information presented by the hospital representative, the Advocate and you, and decides whether the hospital has probable cause to continue to hold you in the hospital involuntarily or needs to release you.

**Hospital Representative:** This person may be your doctor or another staff person in the hospital. He/she will present information to support continuing the 14-day treatment. The hospital always bears the burden of proving that you need involuntary treatment.

**Patients' Rights Advocate:** This person is from the Patients' Rights Office, and meets with you before the hearing, assists you by presenting your expressed wishes at the hearing, upholds your rights during the hearing and provides you with support. You may have your private attorney attend as well.

It is always advisable that you attend the hearing, to have an opportunity to hear what is said about you but you are not required to attend. You may sign a form that you do not want to attend.

You have the right to request that family members, friends or whomever else you believe can be of assistance to you attend the hearing. You may also choose to exclude any family member or friend who has asked to attend.

If you choose to exclude a family member or friend from the hearing, the Hearing Officer may hear the person and dismiss after questions from you or the Advocate.

### **What Will Happen At The Hearing?**

1. The Hearing Officer introduces himself/herself, and explains the process. The hospital representative presents first, the Advocate second and then you may speak on your own behalf or decline to speak.
2. The Hearing Officer, after considering the information given at the hearing, will make one of the following decisions:
  - A. The reasons for holding you, stated in the certification, no longer exist, and you cannot be held for involuntary treatment. You, then, may leave the facility on the same day, or you may discuss with your doctor the option of continuing your hospital treatment voluntarily.
  - B. The hospital has demonstrated that you do meet at least one of the reasons stated on the certification, and that you can be held for continuing involuntary treatment.

The Hearing Officer's decision will be given before you leave the room, and if you are not released, you may request a Writ of Habeas Corpus at that time.

### **How Can I Help Myself Be Released?**

You can take some action on your own during your hospital stay and especially before your hearing that will show that you are ready for discharge. In general, showering daily, eating all meals, reporting any problems that you are having, contacting family/friends for their help, and attending your hearing.

#### **If you are being held as a danger to yourself, you can show that you are no longer a danger to yourself by:**

- Not making any attempts to harm yourself or making any threats to harm yourself.
- Contracting with staff not to harm yourself while in the hospital.
- Participating in unit activities and interacting with other patients and staff.
- Eating most of each of your meals.
- Taking showers and showing interest in your grooming.

#### **If you are being held as a danger to others, you can show that you are no longer a danger to others by:**

- Not being verbally abusive to others patients or staff and staying out of arguments (physical violence often starts with words).
- Respect the privacy and physical space of others, especially near the telephone, TV, and during mealtime.
- Stay away from areas where others are engaging in dangerous behavior.

#### **If you are being held as gravely disabled, show that you are no longer gravely disabled by:**

- Utilizing food, clothing and shelter at the facility.
- Cooperating with staff regarding contacting your family or friends who are willing to assist you when you are released from the hospital.
- Contact family and friends yourself and ask if they would be willing to come to your hearing and state that they are willing to assist you if you are released. If they cannot come to the hearing, it would also be helpful if they would write or fax a letter stating their willingness to assist you.