



Health Care Agency Behavioral Health Services Policies and Procedures	Section Name:	Administration
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SIGNATURE		DATE APPROVED
Chief of Operations Behavioral Health Services	<u>Signature on File</u>	<u>2/18/16</u>

SUBJECT: Lanterman-Petris-Short Act (LPS) Designation of Facilities in Orange County

PURPOSE:

To identify the requirements, procedures, and conditions governing the formal designation of facilities as involuntary psychiatric treatment and evaluation sites in Orange County pursuant to California Welfare and Institutions Code Sections 5150, 5250, 5260, 5270, 5300, 5350, and 5585 inclusive.

POLICY:

Prior to a facility providing involuntary psychiatric treatment and evaluation, the facility must become designated by the Orange County Health Care Agency (HCA) Behavioral Health Services' (BHS) Deputy Agency Director (hereafter referred to as the BHS Director) or designee, and be approved by the Orange County Board of Supervisors and the California Department of Health Care Services (DHCS).

SCOPE:

The provisions of this policy are applicable to facilities in Orange County that wish to obtain designation as involuntary psychiatric treatment and evaluation sites in Orange County pursuant to California Welfare and Institutions Code Sections 5150, 5250, 5260, 5270, 5300, 5350, and 5585 inclusive.

REFERENCES:

Welfare and Institutions Code, Division 5. Community Mental Health Services [5000-5912]. Part 1. The Lanterman-Petris-Short Act (LPS) [5000-5550] Chapter 1. General Provisions [5001-5121] and Chapter 2. Involuntary Treatment [5150-5349.5]

Welfare and Institutions Code, Division 5. Community Mental Health Services Part 1.5 Children's Civil Commitment and Mental Health Treatment Act of 1988. Chapter 1: General Provisions [5585-5585.25] and Chapter 2: Civil Commitment of Minors [5585-5585.59]

Health and Safety Code, Division 2. Licensing Provisions, Chapter 2. Health Facilities [1250-1263]

Title 9, Division 1, Chapter 4, Article 3, Section 821

Orange County Health Care Agency (OCHCA) Behavioral Health Services (BHS) LPS Criteria for Designating and Re-designating Facilities

DEFINITIONS:

5150/5585 - Sections of the California Welfare and Institutions Code that authorizes a peace officer, a member of the attending staff, or professional person designated by the county to take an adult/minor into custody for a period of up to 72 hours for assessment, evaluation and crisis intervention, or placement for evaluation and treatment in a Designated Facility if he or she is a danger to self, danger to others, or gravely disabled due to mental health disorder.

Designated Facility - a facility that has been designated by the County Board of Supervisors and approved by the State to provide involuntary psychiatric evaluation and treatment to persons who are a danger to self, danger to others, or gravely disabled due to a mental health disorder.

Health Maintenance Organization (HMO) - an organization that provides health care to people who make regular payments to it and who agree to use the doctors, hospitals, etc., that belong to the organization.

Minor - anyone under the age of 18 who is not married, or a member of the armed forces, or declared emancipated by a court of law.

LPS - Lanterman-Petris-Short Act provides the statutory framework for the commitment of individuals with mental health disorders and provides protection for the legal rights of such individuals.

BHS Designation Consultant - the BHS Director's designee that is responsible for carrying out HCA policies on individual and facility LPS designations.

PROCEDURES:

- I. Designated Facility Requirements
 - A. To be eligible to become a Designated Facility, a facility is licensed or certified as a mental health treatment facility or a hospital, as defined in subdivision (a) or (b) of Section 1250 of the California Health and Safety Code, by the California Department of Public Health (CDPH). A Designated Facility may include, but is not limited to, a licensed general acute care hospital, a licensed psychiatric hospital, a licensed psychiatric health facility, or a certified crisis stabilization unit. Other types of facilities may be designated at the discretion of the BHS Director.
 - B. Facilities must comply with all applicable regulations established by DHCS and CDPH Licensing and Certification. All licenses and/or certifications must be maintained.
 - C. Facilities must meet legal and regulatory requirements of Welfare and Institutions Code Division 5, Community Mental Health Services under the

Lanterman-Petris-Short (LPS) Act, the Children's Civil Commitment and Mental Health Treatment Act of 1988, and Title 9, California Code of Regulations (CCR), Subchapter 4, Community Mental Health Services under the LPS Act. Included hereunder is the requirement that the facility must meet those staffing standards identified in Section 663, Subchapter 3. Where regulations exceed the minimum licensing standards, regulations in Section 663 of Subchapter 3 shall take precedence.

- D. No facility shall have any gross violations of clinical practice and/or safety precautions relevant to the particular level of care administered to individuals, even though the violations may not be explicitly covered by licensing and/or certification standards. This determination shall be made by the BHS Director.
- E. No facility shall be under investigation or convicted of Medicare/Medi-Cal fraud or be noncompliant with Medicare Conditions of Participation. This determination shall be made by the BHS Director.
- F. The facility must comply with all conditions set forth in the OCHCA BHS LPS Criteria for Designating and Re-designating Facilities.

II. Submitting a Request for Facility LPS Designation

- A. The facility requesting designation notifies the Orange County Health Care Agency BHS Designation Consultant (hereafter referred to as BHS Designation Consultant) in writing of their intentions.
- B. The BHS Designation Consultant will contact the facility to discuss the designation process and criteria for LPS designation and will send the facility a copy of the OCHCA BHS LPS Criteria for Designating and Re-designating Facilities.
- C. Patients' Rights Advocacy Services will contact the facility to discuss Patients' Rights designation requirements.
- D. When the facility is ready, they may submit their policies and procedures and other required documentation to BHS for review (see reference OCHCA BHS LPS Criteria for Designating and Re-designating Facilities).
- E. The BHS Designation Consultant and Patients' Rights Advocacy Services will conduct an on-site review of the facility which includes, but is not limited to, the physical plant, voluntary interviews with selected patients and staff, chart reviews, and compliance with patients' rights requirements applicable to designated inpatient psychiatric facilities.
- F. If a facility is found not to be in compliance with the LPS designation criteria and/or at the on-site review, the request for designation will be held on file until such time as full compliance can be demonstrated.

- G. If a facility is found to be in compliance with all LPS designation criteria and at the on-site review, the BHS Designation Consultant will submit a written summary of the findings along with a recommendation for formal designation to the BHS Director.
- H. If the BHS Director concurs with the recommendation, then the BHS Director will submit a formal request to the Board of Supervisors for approval.
- I. Upon concurrence for designation by the Board of Supervisors, the request will be submitted to DHCS for final approval.
- J. The BHS Director will notify the facility's Chief Executive Officer in writing of the Board of Supervisors and the DHCS concurrence or non-concurrence with the recommendation for designation.

III. Procedures for Renewal of Facility LPS Designation

- A. LPS facility designation is valid for two years from the date of the facility's original designation or re-designation approval letter signed by the BHS Director, unless such designation is subsequently suspended or withdrawn.
- B. The facility will be notified in writing by the BHS Designation Consultant as to the date and time of their re-designation audit and the criteria and procedures for LPS re-designation.
- C. The BHS Designation Consultant along with BHS Inpatient Services' Associate Medical Director, Comprehensive Care Nurses, and Patients' Rights Advocacy Services shall perform a re-designation audit of the facility which includes an on-site review of the facility and its functioning. The review shall specifically look for compliance with the requirements identified in Section I and the conditions of LPS designation as outlined in the OCHCA BHS LPS Criteria for Designating and Re-designating Facilities document.
- D. The BHS Designation Consultant shall prepare a written report for the facility based on the audit findings citing specific areas of compliance and noncompliance and will make recommendations for remedial action where indicated and which could include requiring the facility to submit a specific plan of correction. The BHS Director shall make the determination as to the facility's designation status based on the findings of the re-designation audit. Based on the area(s) of noncompliance, the BHS Director may place the facility on provisional designation status for a period not to exceed six months so remediation can occur.

IV. Suspension of Designation

- A. The BHS Director may suspend a facility's designation if in his or her judgment an emergency or threat of harm to patients exists. The suspension period will

end when in the judgment of the BHS Director, the emergency or threat no longer exists.

V. Conditional Designation

- A. The BHS Director may place a facility on conditional designation status to allow time for the facility to correct a serious circumstance that if not corrected may lead to the designation being withdrawn.

VI. Withdrawal of Designation

- A. The BHS Director may withdraw a facility's designation for reasons such as, but not limited to:

1. Closure, loss of license, loss of Joint Commission or equivalent accreditation, or loss of certification.
2. Failure to comply with Medicare Conditions of Participation.
3. Failure to comply with the terms and ethical provisions of the law and patients' rights pursuant to but not limited to Welfare and Institutions Code Divisions 5 and CCR Titles 9 and 22.
4. Failure to comply with Orange County HCA BHS policies.
5. Gross violation and/or ongoing violations of (a) clinical practice and/or safety precautions relevant to the particular level of care administered to individuals to whom designation applies; (b) quality of care; and/or (c) patients' rights.
6. Failure to correct circumstances within a specified time range which previously led to conditional designation.
7. When in the judgment of the BHS Director, the facility does not enhance the overall capacity of the behavioral health service delivery system in Orange County.

- B. The BHS Director shall notify the facility in writing of his or her intention to withdraw the designation no less than 30 days prior to implementation of the intended action. Upon receipt of the written notice the facility may:

1. Submit a written demand for review to the BHS Director no more than 14 days after the receipt of the notice of intention to withdraw designation. The written demand may include a request for a meeting to make an oral presentation.
2. The meeting shall take place no more than 25 days after the receipt of intention to withdraw designation and shall be attended by the BHS

Director or designee and any such other Orange County HCA representatives as the BHS Director identifies in writing to the facility administrator. The meeting may be attended by the facility administrator and Chief Medical Officer and any such others that the facility identifies in writing to the BHS Director.

3. The BHS Director shall consider all written and oral information submitted by the facility and shall notify the facility of his or her final decision in writing no more than 29 days after the facility's receipt of the notice of intention to withdraw designation.