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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5987] (*Division 5 repealed and added by Stats. 1967, Ch. 1667.*)

PART 1. THE LANTERMAN-PETRIS-SHORT ACT [5000 - 5550] (*Heading of Part 1 amended by Stats. 1968, Ch. 1374.*)

CHAPTER 1. General Provisions [5000 - 5122] (*Chapter 1 added by Stats. 1967, Ch. 1667.*)

5000. This part shall be known and may be cited as the Lanterman-Petris-Short Act.

(*Repealed and added by Stats. 1967, Ch. 1667.*)

5001. The provisions of this part and Part 1.5 (commencing with Section 5585) shall be construed to promote the legislative intent as follows:

- (a) To end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities.
- (b) To provide prompt evaluation and treatment of persons with mental health disorders or impaired by chronic alcoholism.
- (c) To guarantee and protect public safety.
- (d) To safeguard individual rights through judicial review.
- (e) To provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled.
- (f) To encourage the full use of all existing agencies, professional personnel, and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures.
- (g) To protect persons with mental health disorders and developmental disabilities from criminal acts.
- (h) To provide consistent standards for protection of the personal rights of persons receiving services under this part and under Part 1.5 (commencing with Section 5585).
- (i) To provide services in the least restrictive setting appropriate to the needs of each person receiving services under this part and under Part 1.5 (commencing with Section 5585).

(*Amended by Stats. 2013, Ch. 567, Sec. 1. (SB 364) Effective January 1, 2014.*)

5002. (a) Persons with mental health disorders and persons impaired by chronic alcoholism may no longer be judicially committed.

(b) Persons with mental health disorders shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) Persons with epilepsy may no longer be judicially committed.

(d) This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, persons with an intellectual disability, and mentally disordered criminal offenders, except as specifically provided in Section 4011.6 of the Penal Code, or as specifically provided in other statutes.

(*Amended by Stats. 2014, Ch. 144, Sec. 84. (AB 1847) Effective January 1, 2015.*)

5003. Nothing in this part shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or practitioner for mental health services, either by direct application in person, or by referral from any other public or private agency or practitioner.

(*Added by Stats. 1967, Ch. 1667.*)

5004. Persons with mental health disorders and persons with developmental disabilities shall receive protection from criminal acts equal to that provided any other resident in this state.

(Amended by Stats. 2014, Ch. 144, Sec. 85. (AB 1847) Effective January 1, 2015.)

5004.5. (a) Notwithstanding any other law, a legal guardian, conservator, or other person who reasonably believes a person with a mental health disorder or developmental disability is the victim of a crime may file a report with an appropriate law enforcement agency. The report shall specify the nature of the alleged offense and any pertinent evidence. Notwithstanding any other law, the information in that report shall not be deemed confidential in any manner. No person shall incur any civil or criminal liability as a result of making a report authorized by this section unless it can be shown that a false report was made and the person knew or should have known that the report was false.

(b) Where the district attorney of the county in which the alleged offense occurred finds, based upon the evidence contained in the report and any other evidence obtained through regular investigatory procedures, that a reasonable probability exists that a crime or public offense has been committed and that the person with the mental health disorder or developmental disability is the victim, the district attorney may file a complaint verified on information and belief.

(c) The filing of a report by a legal guardian, conservator, or any other person pursuant to this section shall not constitute evidence that a crime or public offense has been committed and shall not be considered in any manner by the trier of fact.

(Amended by Stats. 2014, Ch. 144, Sec. 86. (AB 1847) Effective January 1, 2015.)

5005. Unless specifically stated, a person complained against in any petition or proceeding initiated by virtue of the provisions of this part shall not forfeit any legal right or suffer legal disability by reason of the provisions of this part.

(Added by Stats. 1967, Ch. 1667.)

5006. The provisions of this part shall not be construed to deny treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or denomination for any person detained for evaluation or treatment who desires such treatment, or to a minor if his parent, guardian, or conservator desires such treatment.

(Added by Stats. 1967, Ch. 1667.)

5007. Unless otherwise indicated, the provisions of this part shall not be construed to apply retroactively to terminate court commitments of mentally ill persons or inebriates under preexisting law.

(Added by Stats. 1967, Ch. 1667.)

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing face-to-face, which includes telehealth, evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) of Chapter 2 or by a superior court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. This part does not prohibit an intensive treatment facility from also providing 72-hour evaluation and treatment.

(d) "Referral" is referral of persons by each agency or facility providing assessment, evaluation, crisis intervention, or treatment services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services that prevent initial recourse to hospital treatment or aftercare services that support adjustment to community living following hospital treatment. These services may be provided through county or city mental health departments, state hospitals under the jurisdiction of the State Department of State Hospitals, regional centers under contract with the State Department of Developmental Services, or other public or private entities.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations that present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. The interview or interviews may include family members, significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of a mental health disorder, to be a danger to others, or to themselves, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), and Article 4 (commencing with Section 5250) of Chapter 2, and for purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means any of the following, as applicable:

(A) A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

(B) A condition in which a person has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The complaint, indictment, or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) There has been a finding of probable cause on a complaint pursuant to paragraph (2) of subdivision (a) of Section 1368.1 of the Penal Code, a preliminary examination pursuant to Section 859b of the Penal Code, or a grand jury indictment, and the complaint, indictment, or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner.

(iv) The person represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" includes a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

(3) The term "gravely disabled" does not include persons with intellectual disabilities by reason of that disability alone.

(4) A county, by adoption of a resolution of its governing body, may elect to defer implementation of the changes made to this section by Senate Bill 43 of the 2023–24 Regular Session of the Legislature until January 1, 2026.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which the officer has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(l) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

(n) (1) "Designated facility," "facility designated by the county for evaluation and treatment," or "facility designated by the county to provide intensive treatment" means a facility that meets designation requirements duly established by the State Department of Health Care Services in accordance with Section 5404, including, but not limited to, the following:

- (A) Psychiatric health facilities licensed by the State Department of Health Care Services.
- (B) Psychiatric residential treatment facilities licensed by the State Department of Health Care Services.
- (C) Mental health rehabilitation centers licensed by the State Department of Health Care Services.
- (D) Provider sites certified by the State Department of Health Care Services or a mental health plan to provide crisis stabilization.
- (E) General acute care hospitals licensed by the State Department of Public Health.
- (F) Acute psychiatric hospitals licensed by the State Department of Public Health.
- (G) Chemical dependency recovery hospitals licensed by the State Department of Public Health.
- (H) Hospitals operated by the United States Department of Veterans Affairs.

(2) (A) A county may designate a facility for the purpose of providing one or more of the following services:

- (i) Providing evaluation and treatment pursuant to Article 1 (commencing with Section 5150) of Chapter 2.
- (ii) Providing intensive treatment pursuant to Article 4 (commencing with Section 5250) of Chapter 2.
- (iii) Providing additional intensive treatment pursuant to Article 4.5 (commencing with Section 5260) of Chapter 2.
- (iv) Providing additional intensive treatment pursuant to Article 4.7 (commencing with Section 5270.10) of Chapter 2.
- (v) Providing postcertification treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(B) A county may designate a facility, as is appropriate and based on capability, for the purpose of providing one or more types of treatment listed in subparagraph (A) of paragraph (3) of subdivision (n) without designating the facility to provide all treatments.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement, interpret, or make specific this subdivision, in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions, until the time regulations are adopted no later than December 31, 2027.

(o) "Severe substance use disorder" means a diagnosed substance-related disorder that meets the diagnostic criteria of "severe" as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders.

(p) "Personal safety" means the ability of one to survive safely in the community without involuntary detention or treatment pursuant to this part.

(q) "Necessary medical care" means care that a licensed health care practitioner, while operating within the scope of their practice, determines to be necessary to prevent serious deterioration of an existing physical medical condition that, if left untreated, is likely to result in serious bodily injury as defined in Section 15610.67.

(Amended by Stats. 2024, Ch. 644, Sec. 5. (SB 1238) Effective January 1, 2025.)

5008.1. As used in this division and in Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7100), and Division 8 (commencing with Section 8000), the term "judicially committed" means all of the following:

- (a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of State Hospitals pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6.
- (b) Developmentally disabled persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.
- (c) Persons committed to the State Department of State Hospitals or a state hospital pursuant to the Penal Code.

5008.2. (a) When applying the definition of mental disorder for the purposes of Articles 2 (commencing with Section 5200), 4 (commencing with Section 5250), and 5 (commencing with Section 5275) of Chapter 2 and Chapter 3 (commencing with Section 5350), the historical course of the person's mental disorder, as determined by available relevant information about the course of the person's mental disorder, shall be considered when it has a direct bearing on the determination of whether the person is a danger to others, or to himself or herself, or is gravely disabled, as a result of a mental disorder. The historical course shall include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, the patient's medical records as presented to the court, including psychiatric records, or evidence voluntarily presented by family members, the patient, or any other person designated by the patient. Facilities shall make every reasonable effort to make information provided by the patient's family available to the court. The hearing officer, court, or jury shall exclude from consideration evidence it determines to be irrelevant because of remoteness of time or dissimilarity of circumstances.

(b) This section shall not be applied to limit the application of Section 5328 or to limit existing rights of a patient to respond to evidence presented to the court.

(Amended by Stats. 2001, Ch. 506, Sec. 5. Effective January 1, 2002.)

5009. Persons receiving evaluation or treatment under this part shall be given a choice of physician or other professional person providing such services, in accordance with the policies of each agency providing services, and within the limits of available staff in the agency.

(Added by Stats. 1967, Ch. 1667.)

5010. The agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as that term is defined by Section 102(7) of the federal act, shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from or on behalf of the person and the person consents to the disclosure of the records to the extent of his or her capabilities.

(2) The person does not have a parent, guardian or conservator, or the state or the designee of the state is the person's guardian or conservator.

(Added by Stats. 1985, Ch. 1121, Sec. 2.)

5012. The fact that a person has been taken into custody under this part may not be used in the determination of that person's eligibility for payment or reimbursement for mental health or other health care services for which he or she has applied or received under the Medi-Cal program, any health care service plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), or any insurer providing health coverage doing business in the state.

(Added by Stats. 2001, Ch. 506, Sec. 6. Effective January 1, 2002.)

5013. (a) It is the intent of the Legislature that referrals between facilities, providers, and other organizations shall be facilitated by the sharing of information and records in accordance with Section 5328 and applicable federal and state laws.

(b) Each city or county mental health department is encouraged to include on its Internet Web site a current list of ambulatory services and other resources for persons with mental health disorders and substance use disorders in the city or county that may be accessed by providers and consumers of mental health services. The list of services on the Internet Web site should be updated at least annually by the city or county mental health department.

(Added by Stats. 2013, Ch. 567, Sec. 3. (SB 364) Effective January 1, 2014.)

5014. (a) To the extent otherwise permitted under state and federal law and consistent with the Mental Health Services Act, both of the following apply for purposes of Article 1 (commencing with Section 5150) and Article 4 (commencing with Section 5250) of Chapter 2 and Chapter 3 (commencing with Section 5350):

(1) Counties may pay for the provision of services using funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount within the Support Services Account of the Local Revenue Fund 2011, funds from the Behavioral Health Services Fund when included in county plans pursuant to Section 5847, and any other funds from which the Controller makes distributions to the counties for those purposes.

(2) A person shall not be denied access to services funded by the Behavioral Health Services Fund based solely on the person's voluntary or involuntary legal status.

(b) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Amended by Stats. 2024, Ch. 40, Sec. 36. (SB 159) Effective June 29, 2024. Operative January 1, 2025, pursuant to Sec. 85 of Stats. 2024, Ch. 40.)

5020.1. A minor with a mental health condition, between the ages of 3 and 18, upon being considered for release from a state hospital shall have an aftercare plan developed. Such plan shall include educational or training needs, provided these are necessary for the patient's well-being.

(Amended by Stats. 2024, Ch. 948, Sec. 10. (AB 2119) Effective January 1, 2025.)

5110. Whenever a proceeding is held in a superior court under Article 5 (commencing with Section 5275) or Article 6 (commencing with Section 5300) of this chapter or Chapter 3 (commencing with Section 5350) of this part involving a person who has been placed in a facility located outside the county of residence of the person, the provisions of this section shall apply. The appropriate financial officer or other designated official of the county in which the proceeding is held shall make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement shall be certified by a judge of the superior court of the county. The statement shall then be sent to the county of residence of the person, which shall reimburse the county providing the services. If it is not possible to determine the actual county of residence of the person, the statement shall be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

(Amended by Stats. 2002, Ch. 221, Sec. 208. Effective January 1, 2003.)

5111. Any county without a public defender is authorized to compensate the attorneys appointed for persons entitled to be represented by counsel in proceedings under this part.

(Added by Stats. 1970, Ch. 1627.)

5113. Except as provided in Sections 5154, 5173, 5259.3, 5267, and 5306, the facility providing treatment pursuant to Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260) or Article 6 (commencing with Section 5300), the superintendent of the facility, the professional person in charge of the facility and his or her designee, or 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 the period for which he or she was admitted pursuant to the provisions of the appropriate article.

(Amended by Stats. 1985, Ch. 1288, Sec. 1. Effective September 30, 1985.)

5114. At any judicial proceeding under the provisions of this division, allegations that the person is a danger to others, or to himself, or gravely disabled as a result of mental disorder or impairment by chronic alcoholism, shall be presented by the district attorney for the county, unless the board of supervisors, by ordinance or resolution, delegates such duty to the county counsel.

(Added by Stats. 1970, Ch. 1627.)

5115. The Legislature hereby finds and declares:

(a) It is the policy of this state, as declared and established in this section and in the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500), that persons with mental health disorders or physical disabilities are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability.

(b) In order to achieve uniform statewide implementation of the policies of this section and those of the Lanterman Developmental Disabilities Services Act, it is necessary to establish the statewide policy that the use of property for the care of six or fewer persons with mental health disorders or other disabilities is a residential use of the property for the purposes of zoning.

(Amended by Stats. 2014, Ch. 144, Sec. 87. (AB 1847) Effective January 1, 2015.)

5116. (a) Pursuant to the policy stated in Section 5115, a state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer persons with mental health disorders or other disabilities or dependent and neglected children, shall be considered a residential use of property for the purposes of zoning if the homes provide care on a 24-hour-a-day basis.

(b) These homes shall be a permitted use in all residential zones, including, but not limited to, residential zones for single-family dwellings.

(Amended by Stats. 2014, Ch. 144, Sec. 88. (AB 1847) Effective January 1, 2015.)

5117. In order to further facilitate achieving the purposes of this act and the Lanterman Mental Retardation Act of 1969, it is desirable that there be a consolidation of the facilities standard setting, licensure and ratesetting functions of the various state departments under the jurisdiction of the Health and Welfare Agency.

(Amended by Stats. 1979, Ch. 373.)

5118. (a) For the purpose of conducting hearings under this part, the court in and for the county where the petition is filed may be convened at any time and place within or outside the county suitable to the mental and physical health of the patient, and receive evidence both oral and written, and render decisions, except that the time and place for hearing shall not be different from the time and place for the trial of civil actions for such court if any party to the proceeding, prior to the hearing, objects to the different time or place.

(b) Hearings conducted at a state hospital or a mental health facility designated by a county as a treatment facility under this part or any facility referred to in Section 5358 or Division 7 (commencing with Section 7100), within or outside the county, shall be deemed to be hearings held in a place for the trial of civil actions and in a regular courtroom of the court.

(c) (1) Notwithstanding any other law, and except as otherwise provided in this subdivision, a hearing held under this part is presumptively closed to the public if that hearing involves the disclosure of confidential information.

(2) The individual who is the subject of the proceeding may demand that the hearing be public, and be held in a place suitable for attendance by the public.

(3) The individual who is the subject of the proceeding may also request the presence of any family member or friend without waiving the right to keep the hearing closed to the rest of the public.

(4) A request by any other party to the proceeding to make the hearing public may be granted if the judge, hearing officer, or other person conducting the hearing finds that the public interest in an open hearing clearly outweighs the individual's interest in privacy.

(5) Before commencing a hearing, the judge, hearing officer, or other person conducting the hearing shall inform the individual who is the subject of the proceeding of their rights under this section.

(d) As used in this section, "hearing" means any proceeding conducted under this part, including, but not limited to, conservatorship and other hearings held pursuant to Chapter 3 (commencing with Section 5350), certification review hearings, and jury trials.

(Amended by Stats. 2021, Ch. 389, Sec. 1. (SB 578) Effective January 1, 2022.)

5119. On and after July 1, 1972, when a person who is an employee of the State Department of Mental Health at the time of employment by a county in a county mental health program or on and after July 1, 1972, when a person has been an employee of the State Department of Mental Health within the 12-month period prior to his employment by a county in a county mental health program, the board of supervisors may, to the extent feasible, allow such person to retain as a county employee, those employee benefits to which he was entitled or had accumulated as an employee of the State Department of Mental Health or provide such employee with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employee of the State Department of Mental Health. Such benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

The county may on and after July 1, 1972, establish retraining programs for the State Department of Mental Health employees transferring to county mental health programs provided such programs are financed entirely with state and federal funds made available for that purpose.

For the purpose of this section "employee of the Department of Mental Health" means an employee of such department who performs functions which, prior to July 1, 1973, were vested in the Department of Mental Hygiene.

(Amended by Stats. 1977, Ch. 1252.)

5120. It is the policy of this state as declared and established in this act and in the Lanterman-Petris-Short Act that the care and treatment of individuals with a mental health condition be provided in the local community. In order to achieve uniform statewide implementation of the policies of this act, it is necessary to establish the statewide policy that, notwithstanding any other provision of law, no city or county shall discriminate in the enactment, enforcement, or administration of any zoning laws, ordinances, or rules and regulations between the use of property for the treatment of general hospital or nursing home patients and the use of property for the psychiatric care and treatment of patients, both inpatient and outpatient.

Health facilities for inpatient and outpatient psychiatric care and treatment shall be permitted in any area zoned for hospitals or nursing homes, or in which hospitals and nursing homes are permitted by conditional use permit.

(Amended by Stats. 2024, Ch. 948, Sec. 11. (AB 2119) Effective January 1, 2025.)

5121. (a) The county behavioral health director may develop procedures for the county's designation and training of professionals who will be designated to perform functions under Section 5150. These procedures may include, but are not limited to, the following:

(1) The license types, practice disciplines, and clinical experience of professionals eligible to be designated by the county.

(2) The initial and ongoing training and testing requirements for professionals eligible to be designated by the county.

(3) The application and approval processes for professionals seeking to be designated by the county, including the timeframe for initial designation and procedures for renewal of the designation.

(4) The county's process for monitoring and reviewing professionals designated by the county to ensure appropriate compliance with state law, regulations, and county procedures.

(b) A county behavioral health director may develop a training for the procedures for designation developed pursuant to subdivision (a).

(c) If a county behavioral health director denies or revokes an individual's designation, the county behavioral health director shall, in writing, notify the person who made the request for designation of the individual and the individual who is the subject of the request for designation describing the reasons for denial or revocation.

(d) Designated members of a mobile crisis team and designated professional persons shall not be prohibited from transporting a person taken into custody pursuant to Section 5150.

(e) If the county behavioral health director of the County of Sacramento develops procedures pursuant to subdivision (a), the county behavioral health director of the County of Sacramento shall, by April 1, 2022, issue a written policy regarding the procedures developed pursuant to subdivision (a). The policy shall address, at a minimum, the topics identified in paragraphs (1) to (4), inclusive, of subdivision (a). The policy shall require the county behavioral health director of the County of Sacramento to designate individuals employed by the City of Sacramento who are also members of a mobile crisis team or who are also professional persons if all of the following are true:

(1) The City of Sacramento submits a written request to the county behavioral health director.

(2) The individuals meet the requirements for designation included in the policy.

(3) If the county behavioral health director of the County of Sacramento has developed a training pursuant to subdivision (b), the individuals have completed that training.

(Amended by Stats. 2021, Ch. 399, Sec. 1. (AB 1443) Effective January 1, 2022.)

5122. (a) For purposes of an opinion offered by an expert witness in a proceeding relating to the appointment or reappointment of a conservator pursuant to Chapter 3 (commencing with Section 5350) or Chapter 5 (commencing with Section 5450), the statement of a health practitioner, as defined in subdivision (d), included in the medical record is not made inadmissible by the hearsay rule when the statement pertains to the person's symptoms or behavior stemming from a mental health disorder or severe substance use disorder that the expert relies upon to explain the basis for their opinion, if the statement is based on the observation of the declarant, and the court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(b) This section does not affect the ability of a party to call as a witness the declarant of any statement contained in the medical record, whether or not the declarant's statement was relied on by the expert witness.

(c) The court may grant a reasonable continuance if an expert witness in a proceeding relied on the medical record and the medical record has not been provided to the parties or their counsel.

(d) (1) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, resident, intern, registered nurse, licensed clinical social worker or associate clinical social worker, licensed marriage and family therapist or associate marriage and family therapist, licensed professional clinical counselor or associate professional clinical counselor, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, and a psychological associate registered pursuant to Section 2913 of the Business and Professions Code.

(2) "Medical record" means any record, in any form or medium, maintained or lawfully obtained by, or in the custody or control of, the office of the public conservator or public guardian that is prepared by a health practitioner and relates to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient who is subject to a conservatorship pursuant to Chapter 3 (commencing with Section 5350). Medical record includes records of care in any health-related setting used by health care professionals while providing patient care services, for reviewing patient data or documenting

observations, actions, or instructions, including records that are considered part of the active, overflow, and discharge chart. Medical record also includes, but is not limited to, all alcohol and substance use and treatment records.

(e) Nothing in this section affects the application of Section 1201 of the Evidence Code.

(Added by Stats. 2023, Ch. 637, Sec. 3. (SB 43) Effective January 1, 2024.)