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The Certification Review Hearing: What it is and What it Means to You

This informational sheet has been provided to advise you of your legal rights to a hearing when you are held against your will on a 14-day certification (or a 5250).

When you are placed on a 14-day hold/5250, you are automatically entitled to a certification review hearing. A certification review hearing is an informal legal hearing held at the hospital where you have been put on the hold. No rules of evidence or courtroom procedures are followed. The purpose of the hearing is to determine whether there is sufficient legal reason to believe you are a danger to others, a danger to yourself, or gravely disabled (unable to provide for food, shelter, or clothing) due to a mental disorder. This decision is made by a hearing officer appointed by the court.¹

Is a certification review hearing required?

No. You may waive your right to a hearing if you do not wish to have one after talking to a Patients' Rights Advocate. Also, if you request a court hearing (or Writ of Habeas Corpus) first, you are not automatically entitled to a certification review hearing.²

How do you prepare for a certification review hearing?

A Patients' Rights Advocate will speak to you before the hearing about what will happen. If you wish, the Patients' Rights Advocate can represent you at the hearing, making an argument for you based on your reasons for feeling you are ready to leave the hospital and evidence from your medical chart.³

How can I prepare for the hearing?

If the 5250 hold states that the doctor believes you are Gravely Disabled, you can help your advocate by preparing a plan for your own self-care. This should include where you are going to stay, how you are going to get there, and how you will be able to pay for food and clothing. You can gather the names and phone numbers of friends or family members who might be able to provide support for you. If you can, try to get in touch with these people and find out if they will be able to help you. Your advocate will then check with them on the day of the hearing to make sure they are willing and able to provide support.

¹ Cal. Welf. & Inst. Code §§5256, 5265.1

² Cal. Welf. & Inst. Code §§5254.1, 5256.3

³ Cal. Welf. & Inst. Code §§5255, 5256.4

Who is present at the hearing?

Four people are usually present:

- 1) a Hospital Representative such as a nurse or social worker;
- 2) a Patients' Rights Advocate who argues for your position
- 3) the Hearing Officer who conducts the hearing; and
- 4) Yourself

You may request that other staff or family members attend. You also have a right not to attend the hearing if you prefer, although it is your right to attend the hearing. ⁴

What happens at the hearing?

The Hearing Officer will first explain the purpose of the hearing and the procedures to be followed. The Hospital Representative will then read evidence from your chart as to why the facility believes you are a danger to yourself, a danger to others, or gravely disabled. Next, the Patients' Rights Advocate will make an argument on your behalf for why you should be discharged. Your Advocate may also ask you questions so the hearing officer can hear your responses, and you may add whatever you feel is important to the matter at hand. The Hearing Officer may ask you some additional questions. Then the Hearing Officer will make a decision about whether or not the hold is supported by the evidence.⁵

What happens if the hearing officer does not find you to be a danger to yourself, a danger to others, or gravely disabled?

If you wish, you may be discharged. If you would like to continue treatment, you may sign into the facility voluntarily.⁶

What happens if the hearing officer does find you to be a danger to yourself, a danger to others, or gravely disabled?

The hospital can continue to hospitalize you against your will. If you want a second hearing, this time before a judge, in court, you can ask for a Writ of Habeas Corpus by calling the Public Defender.⁷ In Santa Clara County, this number is (408) 299-7200.

DISCLAIMER: This fact sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, Mental Health Advocacy Project cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights for your particular case.

⁴ Cal. Welf. & Inst. Code §5256.3

⁵ Cal. Welf. & Inst. Code §5256.4

⁶ Cal. Welf. & Inst. Code §5265.5

⁷ Cal. Welf. & Inst. Code §§5265.6, 5265.7