
Training: *Aligning San Francisco's
LPS Conservatorship Process with New
Qualifications in Senate Bill 43*

Effective January 1, 2024

Welcome & Introduction

Goals

- Training Goals are to review:
 - 5150 and Conservatorship criteria.
 - How to assess individuals for eligibility for 5150 WIC and Conservatorship, under SB 43 changes.
 - How to forward individuals who appear to be eligible for centralized departmental review and referral for Conservatorship.
 - How to correctly provide needed information for investigation, referrals and eventual petitions to the Court.

SB 43 Overview

How SB 43 changes existing LPS policies and procedures

SB 43 Overview

The procedures for involuntary commitment – including Conservatorship and the 5150 process – are governed by the Lanterman-Petris-Short (LPS) Act of 1967 (Welfare & Institutions Code, Section 5000 et seq.) SB 43 (Eggman) expands the Grave Disability definition in respect to these procedures. The change takes effect January 1, 2024, and adds the elements highlighted in red to the Grave Disability definition:

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 substance use disorder; is unable to provide for their basic personal needs for food, clothing, shelter, *personal safety, or necessary medical care*.

SB 43 Overview

- Expanded definition applies to 5150, 5250, 5270 holds and LPS Conservatorships*
- “Severe” substance use disorder is defined as:
 - A presence of at least six symptoms, out of at least eleven possible symptoms, pursuant to the DSM-5.
 - For a 5150 WIC, this can be a description of symptoms rather than a formal diagnosis .
- Personal safety is defined as:
 - The ability of one to survive safely in the community without involuntary detention or treatment.
- Necessary medical care is defined as:
 - Care needed to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury.

*Subject to court approval at every stage of the proceedings.

Grave Disability: Pre and Post SB 43

Elements of Grave Disability Definition	Old Definition	New Definition
Mental Disorder diagnosis is a basis for Grave Disability (“GD”)	X	X
Stand-alone Severe Substance Use Disorder (“SUD”) is a basis for GD		X
Co-occurring Mental Disorder and SUD is a basis for GD	X	X
Inability to provide for food, clothing, shelter is a basis for GD	X	X
Inability to provide for personal safety is a basis for GD		X
Inability to provide for medical care is a basis for GD		X
Causation required between Mental Disorder/SUD and inability to provide for basic needs	X	X
Referral from psychiatrist/psychologist required for Conservatorship petition	X	X
Constitutional rights/protections for patients subject to involuntary holds and Conservatorships	X	X

Mayor's Executive Directive 23-02

Utilizing LPS Grave Disability Conservatorships

Our Call to Action

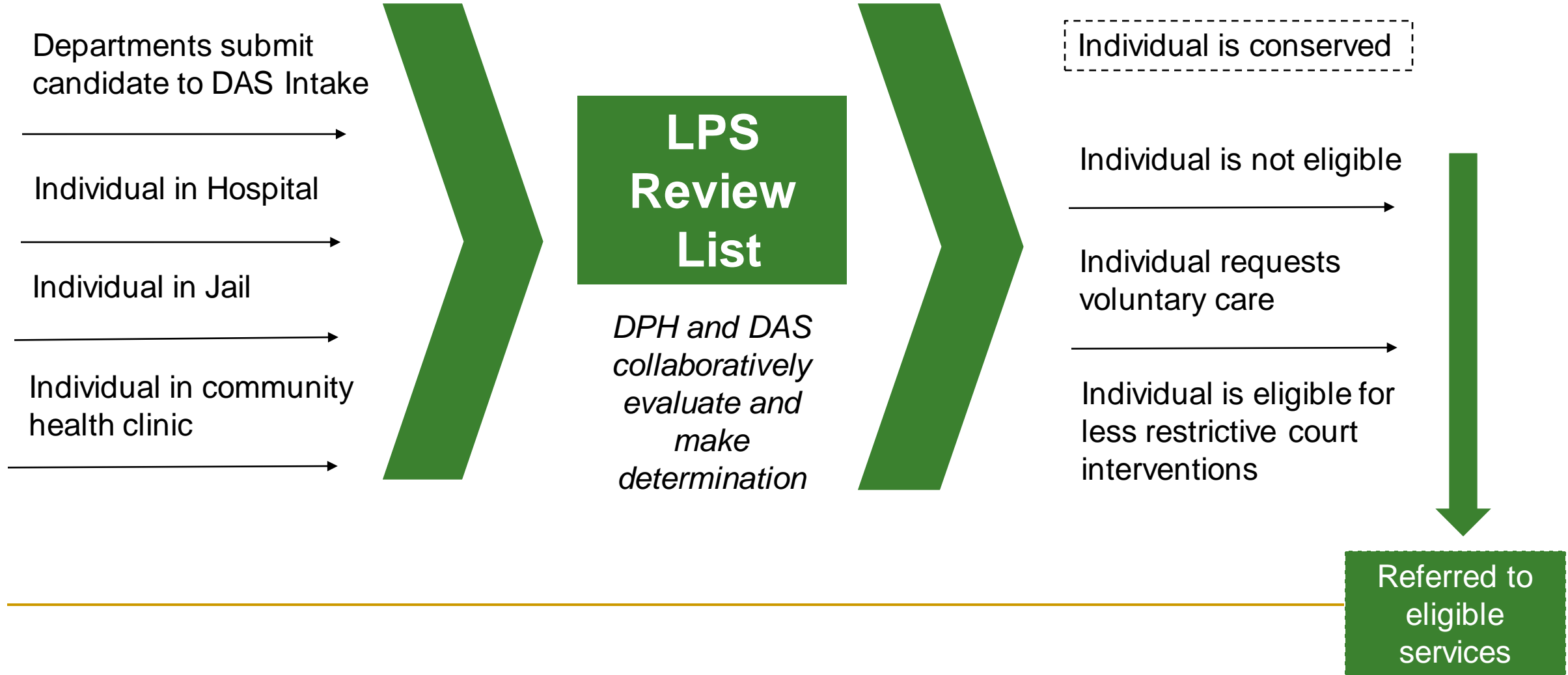
- To use every available option to help those unable to care for themselves due to serious mental illness or severe substance use disorder.
- Collaborate across departments to provide the help and care that people deserve.
- Align our Conservatorship processes with the new qualifications of SB 43, with updated procedures and policies.
- Streamline the process for assessing and referring candidates for Conservatorship.
- Maintain client privacy.

LPS Review List

- In response to Executive Directive 32-02, DAS and DPH will work with departments to create and maintain a priority list of individuals potentially eligible for Conservatorship.
- The LPS Review List will be managed by DAS.
- Any candidates proposed must meet minimum criteria, as established by DAS and DPH.

ON and Off Ramps to LPS Review List

Individuals at risk for grave disability, but not currently known to meet criteria:



Identifying Cases

- The Department of Public Health is responsible for identifying and filing petitions for Conservatorship when clinically appropriate.
- All providers should identify when an individual should be considered for Conservatorship.
- Psychiatrists and psychologists are authorized under Welfare and Institutions Code to submit referrals to the Office of Public Conservator.
- NOTE: Conservatorships can be initiated from the hospital/jail OR community.
- Providers, Department of Public Health, or Community based organizations should email DPH-ConservedAdultCareCoordination@sfdph.org to consult on potential cases or reach out to the DAS Hub.

Get Connected | DAS Benefits & Resource Hub

The DAS Benefits & Resource Hub is a one-stop shop where you can learn about and get connected to services for older people, adults with disabilities, veterans, and caregivers

We are available Monday through Friday, 8 am – 5 pm



In Person

Drop in to see us at
2 Gough Street



By Phone

Call our helpline at
(415) 355-6700



Online

Visit our website at
www.SFHSA.org

Involuntary Detentions: *Assessing* for 5150 Holds

Review

What's new?

How to assess for 5150 with new elements from SB 43

What is a 5150?

5150 is a section of California's Welfare and Institutions Code which deals with involuntary confinement of a person for the purposes of a psychiatric evaluation and treatment. Specifically, the Welfare & Institutions Code, § 5150 states:

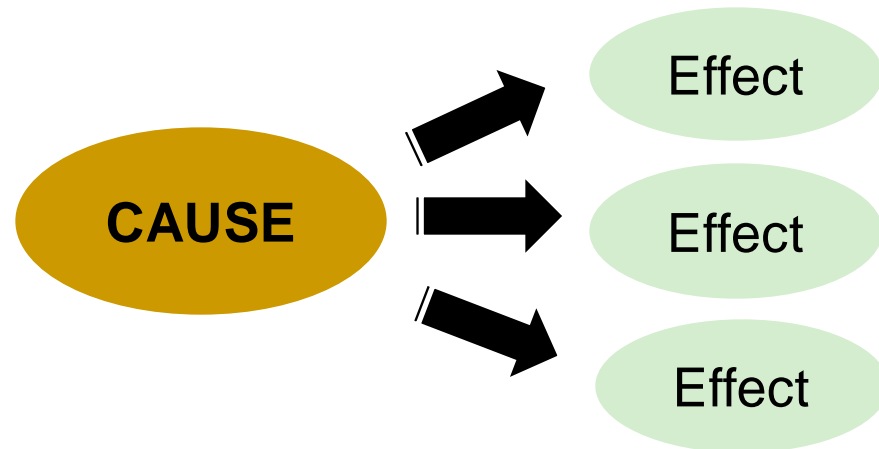
“When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county and approved by the State Department of Health Care Services.”

Identifying Grave Disability for Involuntary Holds and Conservatorship

The two main legal criteria that **MUST** be connected to show "cause" and "effect"

1. Cause (the diagnosis): Mental Health Disorder OR Severe Substance Use Disorder OR Mental Health + Substance Use Disorder.
2. Effect: Inability to provide for food, clothing, shelter, personal safety OR necessary medical care.

To show Grave Disability, specific facts must show that the symptoms of the cause/diagnosis are **causing** the inability to provide.



A Visualization of All Criteria for Placing a 5150 Hold

If one of these exists...



AND the symptoms of the disorder have the effect of:



AND the individual is unable or unwilling to receive psychiatric treatment

Diagnosis: Mental Health Disorder

Danger to Self

Danger to Others

Diagnosis: Mental Health Disorder, Severe Substance Use Disorder, or MHD + SUD

Grave Disability
(inability to provide food, shelter, clothing, personal safety, necessary medical care)



Candidate for a 5150

Placing a 5150 Hold - Grave Disability

The primary goals of the assessment are to determine that:

- The person is gravely disabled (**with expanded criteria**); **and**
- The grave disability is 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; **and**
- The person is unable or unwilling to voluntarily receive treatment, or otherwise commit to a safety plan.

Placing a 5150 Hold – Grave Disability (*continued*)

The determination of grave disability is based on your evaluation but can include statements or actions observed by other staff or significant others, including family members and support persons, as well as historical information about the course of the person's mental health disorder.

- Note: per the recent revision to the WIC, relevant information about the historical course of the person's mental health or substance use disorder shall be considered if it has reasonable bearing on the determination to place a hold.

If you hear concerning information during the course of an evaluation, understand that you may also be required by law to file a mandated report.

Determining Grave Disability (5150) - Review of Existing Assessment Criteria

Assessing for grave disability requires that you determine if a person is unable to provide for their basic needs even if provided for by others.

Areas to assess should include (note that these need to be extreme examples of deterioration):

- Signs of malnourishment (loss of weight) or dehydration.
- Unwillingness to eat when food is provided.
- Irrational beliefs about food that is available (e.g., it is poisoned).
- Inability to articulate a plan for getting food.
- Unwillingness to clothe oneself when clothing is provided.
- Unable to utilize shelter when provided or to formulate a reasonable plan for shelter.
- Inability to engage in personal hygiene.
- Inability to utilize medical care when needed and available.

Determining Grave Disability (5150) – With the Addition of “Severe Substance Use Disorder”

Severe Substance Use Disorder:

- A presence of at least six symptoms, out of at least eleven possible symptoms, pursuant to the DSM-5.

Implications:

- Previously, Grave Disability was defined as a condition resulting from a mental health disorder or a co-occurring mental health disorder and a substance use disorder. Now, Grave Disability can also result from severe substance use disorder alone.

Determining Grave Disability (5150) -

New Assessment Criteria: Personal Safety

Assessing for "**personal safety**" requires that you determine if a person has the ability to survive safely in the community without involuntary detention or treatment. Hypotheticals:

- Running in and out of traffic.
- Being assaulted, abused, exploited, or victim of crime.
- Unhygienic/uninhabitable conditions at home or other home safety issues such as arson.
- Inability to care for hygiene, cleanliness, needles, which leads to illness (especially if doesn't rise to level of serious bodily injury).
- Failure to thrive (may be a crossover with medical care).
- Multiple near-fatal overdoses requiring inpatient hospitalization (Note: Narcan reversals alone would not meet this criteria).

Determining Grave Disability (5150) - New Assessment Criteria: Necessary Medical Care

When assessing for “**necessary medical care**” you will determine if a licensed healthcare practitioner, operating within the scope of their practice, determines the treatment to be necessary to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury. Hypotheticals:

- Wound care and infection issues that are likely to lead to loss of limb or life if not treated.
- Untreated comorbidities such as HIV, Diabetes, Cancer, liver/kidney disease that is life-threatening.
- Extreme physical pain.

**Please note that one of these examples alone is likely not enough to initiate a hold and we should review the totality of a situation and document all symptoms indicating the reason for a hold*

Involuntary Detentions: Writing 5150 Holds

Consider New Elements in the GD Definition

- Include the new elements in the Grave Disability definition as appropriate in the existing 5150 Application.

Specific facts that I have considered that lead me to believe that this person is, as a result of a mental health disorder, a danger to others, a danger to self or gravely disabled:

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Scenarios

Practice Scenarios

- In the following scenarios, determine if criteria for a hold are met by considering:
 - Warning signs.
 - Risk factors.
 - Probable cause for danger to self or others, or grave disability.
 - Unwilling or unable to seek voluntary treatment or otherwise engage in a safety plan.

Scenario #1

- Evaluate the following scenario to determine if the client meets the criteria for 5150, under the expanded definition of grave disability

A young man experiences auditory commands to maintain vigil outside a specific church. His fixation on this church resulted in his sleeping on the sidewalk in front of the church at night. Sometimes he is seen sleeping on a grate near parked cars to stay warm. He obtains food through a community program. He has no income and no permanent home, and he has an open, festering wound on his leg, but will not engage in medical treatment as he does not want to leave his vigil and says that God will protect him. He declines reasonable offers of shelter or housing due to his command hallucinations.

Scenario #1

- Conclusion: There is probable cause for grave disability.
- While this young man is not an imminent threat to himself or others, he is gravely disabled due to the evidence of lack of shelter and lack of ability to accept necessary medical care for a condition that could be serious if untreated, due to his mental health condition.

Scenario #2

- Evaluate the following scenario to determine if the clients meets the criteria for 5150:

A 23-year old woman is found incapacitated on the street, with evidence of a drug overdose. She has been taken to ZSFG ED 3 time in the last 3 months under similar circumstances, each requiring Naloxone intervention by paramedics or hospital. She has no shelter. She also has insulin-dependent diabetes, and does not take her insulin, which is causing or placing her at risk of serious complications. She declines medical care due to her substance use and is at risk of her leg being amputated. She is also frequently found in state of undress and it is believed that she has been the victim of repeated sexual trauma. Collateral information indicates she frequently seeks out substances, most of her day is spent around substance-related activities, she is often found intoxicated or withdrawing from substances, and neglects her personal safety.

Scenario #2

- Conclusion: There is probable cause for grave disability.
- Based on her current condition and past history of likely severe substance use disorder; inability to maintain her personal safety, the seriousness of her medical condition, she meets criteria for a 5150.

The Future View

- Entering new territory with untested definitions.
- There is not yet any case law supporting the interpretations of these new definitions.
- In the year or two ahead, we will be tracking emerging case law and adapting our policies accordingly.

Supporting Resources

- Placement is a critical success factor in Conservatorship.
- The CCSF is in the process of increasing residential capacity by approximately 400 overnight treatment spaces (beds) adding to the 2,200 that already exist for both long- and short-term stays.
- The Executive Steering Committee is tasked with submitting an Infrastructure Plan detailing core needs for successful implementation of SB 43.

Q&A

Appendices

Background on Severe Substance Use Disorder

What Constitutes Severe Substance Use Disorder

11 criteria used to define Substance Use Disorders; presence of 6 indicates “severe” SUD

- Use in larger amounts or for longer periods of time than intended.
- Unsuccessful efforts to cut down or quit.
- Excessive time spent getting, using, intoxicated, and recovering from effects.
- Craving or intense desire/urge to use substance.
- Failure to fulfill major obligations.
- Continued use despite social/interpersonal problems.
- Activities/hobbies reduced or given up.
- Recurrent use in physically hazardous situations.
- Recurrent use despite physical or psychological problems caused by or worsened by use.
- Tolerance.
- Withdrawal.

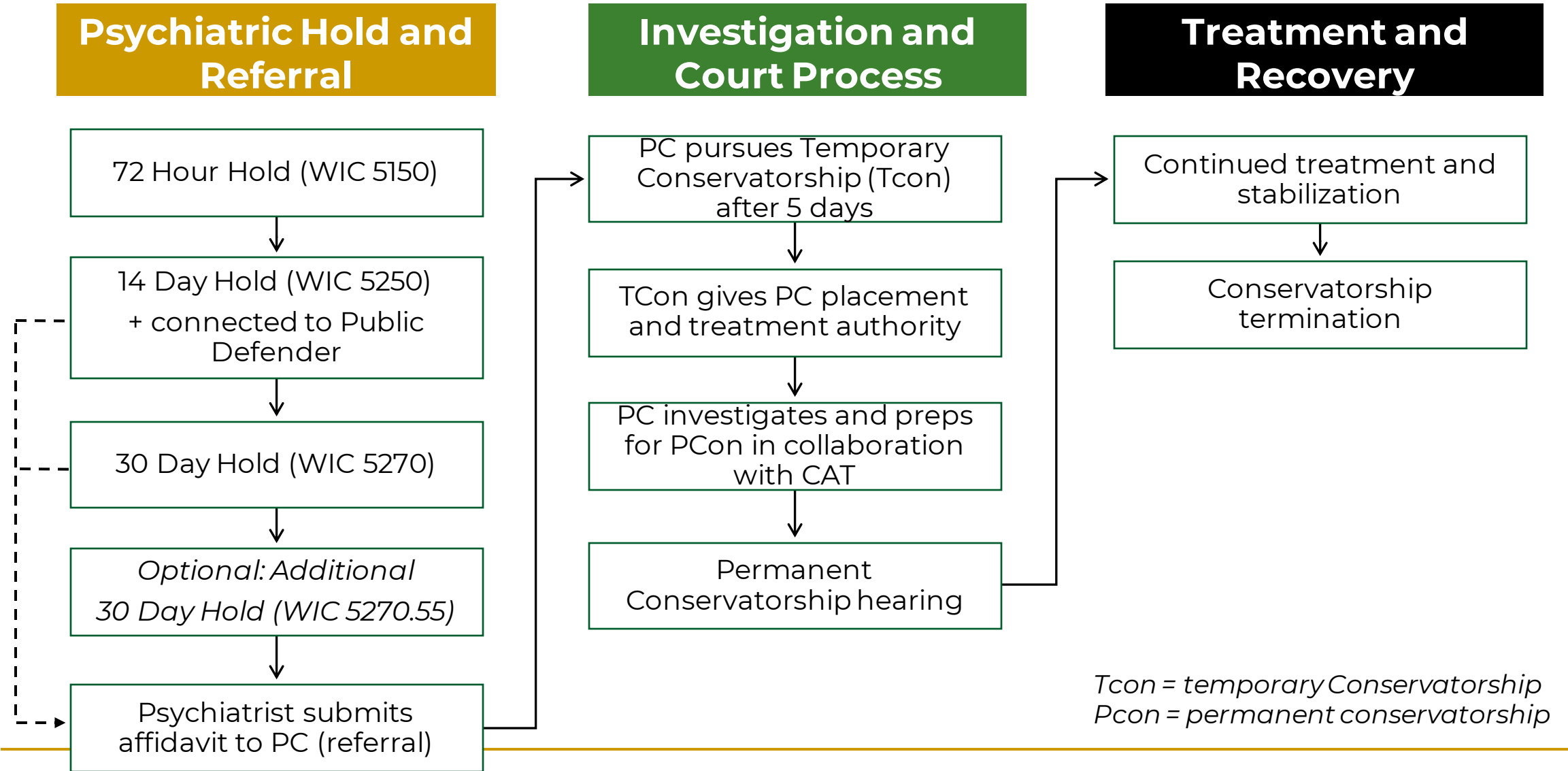
LPS Conservatorship: Our Existing System

LPS Conservatorship: Key Provisions

- Conservatorship is a legal mechanism to provide individualized treatment, supervision, and placement.
- LPS referrals can be submitted by MDs/Psychiatrists and Psychologists.
- LPS Act provides extensive due process protections.
- Temporary Conservatorships are pursued to provide PC with ability to act immediately and protect an individual in crisis.*
- Permanent Conservatorships are granted for one year and may be renewed if the individual continues to be gravely disabled.*
- PC may seek out involuntary psychiatric medication authority and medical decision-making powers as appropriate.*
- PC must follow the Least Restrictive guiding principle.

*Court must make finding by clear and convincing evidence or beyond a reasonable doubt, depending on stage of proceeding

LPS Flow From Hospital



Referral for conservatorship may be filed at any point after 5150 hold

LPS Flow From Community (Outpatient)

