



Hearings at Sempervirens

The following hearings occur at Sempervirens (SV) and are authorized by the Lanterman-Petris-Short (LPS) Act.

The Capacity (AKA "Riese") Hearing

A Capacity Hearing (WIC §5332-5334) is a hearing requested by SV to determine if a patient on any of the LPS holds the capacity to consent to, or refuse, treatment with anti-psychotic medication. This hearing is held at SV, via teleconference, and is conducted by a Superior Court judge.

The patient will be represented by a court-appointed attorney from the Public Defender's office at the hearing. The treating psychiatrist will be present and is represented by an attorney from the County Counsel's office. The psychiatrist and patient may testify about the patient's condition and why medication is or is not necessary. The judge will then decide whether the patient will be allowed to manage their own medication, or if involuntary medication will be authorized.

The Certification Review Hearing

This hearing is informal and is automatically scheduled to occur within 4 days of a patient being certified for a WIC §5250 14-day hold, and again within 4 days of a patient being certified for a WIC §5270.15 30-day hold. If the patient has a habeas corpus hearing prior to the certification review hearing, they will forfeit their right to a certification review hearing [WIC §5254 & §5270.15].

At the hearing, a neutral hearing officer will review whether there is enough evidence to continue to hold the patient against their will.

Evidence to support the certification decision is presented by a representative from the facility and must prove that additional involuntary treatment is needed. The patient has a right to be present for the hearing, and the right to provide information to the hearing officer to show why they are ready to be discharged. The patient is also entitled to assistance from the Patient's Rights Advocate.

Family members are notified of the date and time of the certification review hearing, if requested by the patient. The patient also has the right to ask that family not be notified. [WIC §§ 5256.4 & 5270.15].

The "Habeas Corpus" Hearing

433 A petition for a writ of habeas corpus is another way the patient can challenge their hold. This hearing is scheduled at the request of the patient, and is held before a Superior Court judge, via teleconference, from SV. The patient is enti-

pled to court-appointed counsel for this hearing, and will be appointed a Public Defender, if requested. [WIC §§ 5275-5276]. The treating psychiatrist will be present and is represented by an attorney from the County Counsel's office.

At the hearing, the judge will either order the patient to be released or deny the petition and permit involuntary treatment at SV to continue.

Family members are notified of the date and time of the hearing, if requested by the patient. The patient also has the right to ask that family not be notified [WIC §5276].

Sharing Information

Receiving Information from Family

For all hearings, the judge or hearing officer is required to consider the "historical course" of the patient's mental illness, including all clinical documentation and information voluntarily provided by family [WIC §5008.2].

Family members are welcome to provide information to treatment staff prior to any hearing, so that the patient's psychiatric record will include information received from family members. Information from family may include, but is not limited to, any of the following: records from previous psychiatric or medical treatment received by the patient, written statements, pictures, and verbal reports of past experiences. Family history of mental illness is relevant and may also be provided.

Providing Information to Family

When a patient is admitted, released, transferred, has a serious illness or injury, or dies, SV will notify the patient's next of kin or any other person designated by the patient, of the patient's status, unless the patient requests that this information not be provided [WIC §5328.1(b)].

If a request for information is made by the patient's spouse, parent, child or sibling and the patient is unable to authorize the release of information, the requester shall be given notification of the patient's presence at SV [WIC §5328.1(a)].

All information and records obtained in the course of providing services to either voluntary or involuntary recipients of services are confidential and shall be disclosed to family only when authorized by the patient. If the patient is a minor, ward, dependent, conservatee, or deceased, information and records can be released when authorized in writing by the patient's parent, guardian, guardian ad litem, conservator, or authorized representative, or authorized to be released by a court order [WIC §5328(a)(2) & (4)].



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Sempervirens Psychiatric Health Facility

720 Wood St.
Eureka, CA 95501
707-445-7710

Sempervirens offers a trauma-informed approach to care in a safe, locked hospital setting for patients who struggle with recovering from serious and persistent mental illness who need acute psychiatric care.

Resources

California Legislative Information:
leginfo.legislature.ca.gov

Welfare and Institutions Code:
§§ 5000-5556

Riese v. St. Mary's Hosp. & Med. Ctr.:
(1987) 209 CA3d 1303

California Department of Health Care Services:
dhcs.ca.gov

