

Minors: Voluntary Admission to Acute Inpatient Psychiatric Care

The statute clearly states a preference for the use of voluntary admission over involuntary admission when the patient is a minor. As a consequence of this stated preference, the LPS-designated clinician will be exploring the possibility of voluntary admission for every minor who meets criteria for civil commitment. The following section is designed to assist the clinician in determining when authorization is "not available." As a rule, a minor's voluntary admission to acute inpatient psychiatric care can only be executed by their parent, guardian, LPS-conservator or other person entitled to the minor's custody. The LPS-designated clinician should be able to identify:

1. Which persons are authorized by law to make application for voluntary admission on a minor's behalf, and
2. The legal impediments to successfully completing a minor's voluntary admission. The following sections define terms used to describe persons who may apply on the minor's behalf, present the special consideration given to minors 14 to 17 years of age, and describe the unique situation of minor wards and dependents in relation to voluntary admission.

Guardians and "other persons entitled to the minor's custody"

Statutes authorize parents, guardians and other persons entitled to the minor's custody to make voluntary application to acute inpatient psychiatric care on the minor's behalf. The LPS-designated clinician should know the following about guardians and other persons entitled to the minor's custody:

- The guardian referred to in the statutes that control the voluntary admission of minors is a court appointed decision maker. A person claiming to be a guardian should have documentation to support that claim.
- Other persons entitled to the minor's custody are persons given custody of the minor by the court. Persons claiming custody should have documentation to support that claim.
- A third type of person who might make application for a minor's voluntary admission

to acute inpatient psychiatric care is a "relative caregiver." This person does not have formal custody of the minor, but may make decisions on the minor's behalf. The "relative caregiver" is also not a guardian, but their decision making power is akin to the powers vested in a guardian. This person is not granted power through a court proceeding. Instead, they generate their own authorization to make mental health decisions by filling out an affidavit. A caregiver who is a relative and who completes items 1-8 of the affidavit provided in Section 6552 and signs the affidavit shall have the same rights to authorize medical care and dental care for the minor that are given to guardians under Section 2353 of the Probate Code. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of Section 2356 of the Probate Code. (Family Code 6550(a))

The affidavit includes the following affirmations:

- () I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative"). Check one or both (for example, if one parent was advised and the other cannot be located):
- () I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
- () I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

Persons claiming to be relative caregivers should be asked to produce this affidavit to support their claim.

Aged 14 to 17 to a "Private" Psychiatric Inpatient Facility

A set of statutes effecting the voluntary admission of minors 14 to 17 years of age to *private* acute inpatient psychiatric care is found in Welfare and Institutions Code, Section 6002.10 et seq. The goal of this set of statutes is two-fold:

1. To ensure that the parent/guardian authorizing the minor's admission is notified of the receiving facility's treatment philosophy, and
2. To provide an independent mechanism for investigating the legitimacy of the minor's admission.

The notice to the parent/guardian is automatic at the time of admission. The statutes that describe this notice have not been included in this manual. The independent investigation for determining the legitimacy of the minor's admission (a.k.a independent clinical review) is not conducted unless the minor requests it. The manual includes statutes that describe the minor who is eligible for an independent clinical review. The manual also provides the statute that describes the point at which the minor is made aware of their right to request the independent clinical review. Notice that the rights granted to the minor by this set of statutes do not prevent the voluntary admission from being completed.

Voluntary Admission Procedures for Minors Meeting Specified
Criteria (Private Hospitals)

Welfare and Institutions Code, Section 6002.10

Any facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, to provide inpatient psychiatric treatment, excluding state hospitals, and county hospitals*, shall establish admission procedures for minors who meet the following criteria:

- (a) The minor is 14 years of age and over, and is under 18 years of age**.
- (b) The minor is not legally emancipated***
- (c) The minor is not detained under Sections 5585.50 and 5585.53****
- (d) The minor is not voluntarily committed pursuant to Section 6552 5*****
- (e) The minor has not been declared a dependent of the juvenile court pursuant to Section 300 or a ward of the court pursuant to Section 602. The minor's admitting diagnosis or condition is either of the following:
 - (1) A mental health disorder only...
 - (2) A mental health disorder and a substance abuse disorder.

*excluding state hospitals, and county hospitals – This group of hospitals follows a procedure for admitting minors 14 to 17 years of age that is based on the CA Supreme Court case In Re Roger S.

**The minor is 14 years of age and over, and is under 18 years of age – The right to

contest voluntary admission is not available to minors under 14 years of age.

***emancipated – An emancipated minor is treated as an adult. Minors become emancipated in one of three ways: 1) marriage, 2) military service, or 3) court order of emancipation resulting from the minor’s request to be emancipated. Please note that bearing or siring a child does not emancipate a minor. An unmarried minor parent has the authority to make application for voluntary admission to inpatient psychiatric care for her child(ren), but cannot make voluntary application to inpatient psychiatric care for herself.

****The minor is not detained under Sections 5585.50 and 5585.53 – That is to say, the minor is not an involuntary patient.

*****Section 6552 – This Welfare and Institutions Code Section pertains to minor wards and dependents. It describes a court process used by minor wards and dependents who want to be admitted to inpatient or outpatient mental health treatment. Wards and dependents who want to be admitted to hospital have no need for a process to contest that admission.

Independent Clinical Review

(Private Hospitals, Welfare and Institutions Code, Section 6002.15)

Minors 14 to 17 have the right to contest voluntary admission to inpatient psychiatric treatment. When admitted a facility as specified in Section 6002.10 shall do all of the following:

1. Inform the minor in writing of the availability of an independent clinical review of their further inpatient treatment.
2. The notice shall be witnessed and signed by an appropriate representative of the facility.*

*Upon admission -- The point at which the minor is given the opportunity to request an independent clinical review to contest their admission is significant for the crisis intervention clinician. The fact that the opportunity comes after admission means that the right to contest does not prevent the admission from occurring. (See the following discussion for a situation that does create an impediment to a minor’s voluntary admission to inpatient psychiatric care.)

If the minor chooses to contest the admission. [The choice is documented, staff contact all

parties involved in the Review, the Review is held within five days.]

Voluntary Admission to Acute Inpatient Psychiatric Care, Minors Aged 14 to 17, to a Public/County Psychiatric Inpatient Facility

Special considerations regarding the voluntary admission of minors aged 14 to 17 (who are not wards or dependents) to public psychiatric facilities is derived from the 1977 California Supreme Court case, *In Re Roger S* (19 Cal. 3d 921). The considerations or rights granted to minors by *Roger S* are similar, but not identical, to the rights granted to minors admitted to private facilities.

For the LPS-designated clinician, the important difference between the private and public processes is the fact that *In Re Roger S* requires that the minor be notified of their right to contest the proposed voluntary admission (i.e., admission on the signature of a parent or guardian) before the admission can be completed. If the minor contests the proposed admission, they cannot be admitted to the facility on the signature of a parent or guardian; until a court hearing finds that the minor has a mental disorder and requires the proposed inpatient treatment. This court hearing may take several days to materialize.

The requirements derived from *In Re Roger S* clearly create an impediment to voluntary admission. It is important to remain clear about the fact that the impediment is to voluntary admission, not to involuntary admission. The line between voluntary admission and involuntary admission is easily blurred when the minor is contesting. "Voluntary admission" simply means that the admission is being authorized by the patient or the patient's agent (conservator, parent, or guardian). The fact that a parent or guardian is authorizing the minor's admission means that the minor is technically considered a "voluntary patient." The alternative to voluntary admission is an admission initiated by the State based on evidence that the person is dangerous to self, dangerous to others and/or gravely disabled (involuntary admission).

The requirements derived from *In Re Roger S* do not apply to the voluntary admission of minors 14 to 17 years of age who are wards or dependents. (See following section on wards

and dependents.)

Roger S. Procedure

Welfare & Institutions Code, Section 6001.15 et seq.

The Roger S. Hearing is designed to allow minors to contest voluntary admission to inpatient psychiatric treatment. Upon advisement, prior to admission, that eligible minors must be advised of option to contest their involuntary admission with the following options:

1. The minor chooses not to contest the admission. [The choice is documented, and the minor is advised that they may change their mind at any time within the next ten days.]
2. The minor chooses to contest the admission. [The choice is documented, staff initiate contact with the court, the Hearing is held at earliest convenience.]
 - a. *In private facilities:* The choice to contest has no immediate effect on the admission, as the minor has already been admitted.
 - b. *In public facilities:* The choice to contest stalls the proposed voluntary admission. This contesting minor may not be admitted into a public psychiatric hospital using the voluntary admission process unless the Roger S. Hearing upholds the necessity of the minor's admission.

Voluntary Admission to Acute Inpatient Psychiatric Care for Minor Wards and Dependents

Definitions

Ward: is a minor who has come within the jurisdiction of the juvenile court because they have violated a city ordinance, county ordinance or criminal statute; or because they are considered to be beyond the control of their parent, guardian, or other custodian. (For more information on this topic consult Welfare and Institutions Code, Section 601 et seq.)

Dependent: is a minor who has come within the jurisdiction of the juvenile court because they have suffered abuse by a parent or guardian or is considered to be at significant risk of suffering abuse by a parent or guardian.

Acute Care for Wards and Dependents

Wards and dependents can enter acute inpatient psychiatric care in one of two ways:

1. On an application for civil commitment (5585), or
2. Upon their own request (6552).

The juvenile court may request that the ward or dependent be evaluated for civil Commitment, but the court is not authorized to require that the minor be admitted to acute inpatient psychiatric care. Also note the following:

Probation and parole officers are authorized by statute to initiate applications (5585) for civil commitment of wards under their charge. Foster parents do not have authority to make an application for the dependents voluntary admission to inpatient psychiatric care.

Department of Children and Family Services (DCFS) employees do not have authority to make voluntary application to inpatient psychiatric care on behalf of wards or dependents, and, at present, DCFS clinicians are not authorized by statute or the county to initiate applications for civil commitment. Wards and dependents do not need the protections provided by the independent clinical review statutes or the case of *In Re Roger S* because the ward/dependent is given direct control of the voluntary admission process by Welfare and Institutions Code, Section 6552, which reads, as follows:

A minor who has been declared to be within the jurisdiction of the juvenile court may, with the advice of counsel, make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003. Notwithstanding the provisions of subdivision (b) of Section 6000, Section 6002, or Section 6004, the juvenile court may authorize the minor to make such application if it is satisfied from the evidence before it that the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility or program in which the minor wishes to be placed; and that there is no other available hospital, program, or facility which might better serve the minor's medical needs and best interest. The superintendent or person in charge of

any state, county, or other hospital facility or program may then receive the minor as a voluntary patient.

This potentially slow "6552" process is an impractical method for obtaining admission to acute inpatient psychiatric care, but it is commonly used to gain admission to other types of inpatient/residential mental health treatment.