



**Behavioral Health
Department**

Alameda County Health

Welfare and Institutions Code 5270 (WIC § 5270)

Frequently Asked Questions

Version Date: August 1, 2025

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Purpose & Context: The purpose of this document is to provide comprehensive response to many of the important procedural, policy, and practice impacts related to the implementation of WIC § 5270 in Alameda County. These contents are guided by legislation, and informed by agencies, community, and stakeholders across county systems. Please be advised that given the nature of any law impacting the community, the information contained therein may be dynamic and may be updated as needed.

1. Question: The intent of the legislature was to use 5270s to prevent the establishment of a temporary conservatorship. Is this accurate?

Answer (#1): No, the 5270 certification process is not intended to prevent the establishment of a temporary conservatorship. This process is intended to be used when an additional period of treatment is appropriate (past the 14-day 5250 certification period) AND when there is not a belief that a conservatorship is needed. The 5270 should be used only in appropriate circumstances in which the qualified treatment team believes that the patient will reconstitute without the appointment of a conservator.

2. Q: If the patient continues to be gravely disabled while on the 5270, may the facility then refer the patient for conservatorship?

A (#2): Yes. If, during the 5270 certification period it appears the patient will require appointment of a conservator, the conservatorship referral must be made. The referral must be made with sufficient time to allow for investigation and legal procedures. In practice, referral for a one-year conservatorship must be made at least 18 days before the expiration of the 5270 certification period. This timeline takes into account required legal procedures (i.e., sufficient notice to the proposed conservatee) for one-year conservatorship.¹

¹ If the patient is within the initial 30-day 5270 certification period, and the facility does not timely complete a conservatorship referral to allow a hearing to be held by the 30th day of that period, the facility may still have the option of filing a petition in the Superior Court to obtain up to an additional 30 days of intensive treatment under Welfare and Institutions Code section 5270.70(a).

3. Q: If the facility believes a conservatorship will be necessary, may the facility refer the patient for conservatorship during the 5250 certification period, or does the hospital need to complete a 5270 certification first? Or in other words: is the 5270 certification a required step in the progression from 5150 to conservatorship?

A (#3): The 5270 certification is absolutely not required in Alameda County in order to progress to a conservatorship. During the 5250 certification period, and before any 5270 certification, the facility must evaluate the patient to determine whether the patient will likely need a conservatorship. If, during the 14-day 5250 certification period, the facility believes a conservatorship will be necessary, a conservatorship referral should be made.² It should be rare to recommend a conservatorship after a 5270 certification. If during the 5250 certification period the facility believes a conservatorship is necessary, a 5270 certification is not appropriate.

4. Q: Since a 5250 hold plus a Riese hearing order would enable a facility to use only immediate acting (IM) medications, does a 5270 hold plus a Riese hearing order similarly allow only IM medications? Are Long Acting Injectable (LAI) medications like *Invega Sustenna* (which lasts 28 days) permitted under a 5270 hold plus a Riese hearing order?

A (#4): A Riese hearing order on a 5270 hold does not allow for the use of LAI medications.

5. Q: For a Riese - is there a grace period for medication to continue while waiting for the hearing on 5270 after the expiration of 5250 or would there conceivably be a gap in meds if a patient refuses?

A (#5): There is no grace period. At the end of the 5250 certification period, the patient must be informed they have a right to refuse until another medication order is obtained.

6. Q: If a patient initially agrees to voluntarily stay at the end of the 5250 certification period, even though they are gravely disabled, may the facility complete a 5270 certification if the patient subsequently states they want discharge (and they are still gravely disabled)?

² If conservatorship referral is appropriate during the 14-day 5250 certification period, as a matter of practice the referral must be for a temporary conservatorship because there would be insufficient time to serve a petition for one-year conservatorship upon the proposed conservatee to hold a hearing on the petition by the end of the 5250 certification period.

A (#6): Yes, if the patient meets criteria and it is still within the 47-day time-frame,³ the facility may complete a 5270 certification, notify Patients' Rights and schedule an appropriate review hearing.. Voluntary time between the 5250 and 5270 certifications counts in the 47 day calculation and the facility must subtract voluntary time from the expiration date of the hold.

7. Q: If a patient is placed on 5270, but later states they are willing to stay voluntarily and are then transferred to a voluntary status, but later then state they want to be discharged, may this patient be placed back on a 5270?

A (#7): Yes, if the patient is placed on voluntary status after the 5270 is placed and/or upheld, and then within the 47 days they ask to discharge again, the 5270 hold may be reinstated if they still meet criteria. Such a reinstatement of a 5270 hold does not require an additional certification review hearing. Any voluntary time counts toward the total 47 day calculation.

8. Q: Is there a grace period for the 5270 similar to the 5250? For example, if a patient is voluntary sometime during or after the 5250 may the facility complete a 5270 certification prior to the end of the total 47 days.

A (#8): Yes, the facility may complete a 5270 certification after the initial 17 days if there is an intervening period of voluntariness. Days spent voluntary between holds are subtracted from the end date of the hold.

9. Q: In general, does the 5270 begin at the end of the 5250?

A (#9): The 5270 begins at the time the hold is served to the patient, just like the 5250. Ideally, the last day of the 5250 should be the first day of the 5270 such that the total between the two holds is 44 days (47 including the 5150 time).

10. Q: For patients whose residence is NOT Alameda County, can we use this 5270? Or do we follow the LPS laws for the patient's primary county of residence?

A (#10): The 5270 may be used for out-of-county patients meeting its criteria. The conservatorship processes of the county of residence would apply.

³ The 47-day time-frame is calculated by adding 3 days (5150), plus 14 days (5250), plus 30 days (5270).

11. Q: May a treating psychologist (PhD, not MD) testify in a writ hearing for the 5270?

A (#11): Yes.

12. Q: In the past psychologists have testified in Writ hearings. May a psychologist testify in lieu of a psychiatrist?

A (#12): A psychologist may testify in a Writ hearing so long as they have at least 5 years of practicing experience. However, because psychologists do not prescribe medication, testimony of a psychiatrist may be necessary for the subject of prescribed medication.

13. Q: Is the patient allowed to file a writ during the 5270, independent of filing a writ during a 5250?

A (#13): Yes, the patient may file the writ once during the 5250 and again during the 5270.