

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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*Chair of the Assembly and the Academic Council
Faculty Representative to the Board of Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200*

June 20, 2008

CLINT HADEN
DIRECTOR, CAMPUS LIFE, STUDENT AFFAIRS

Re: Proposed Amendments to Section 5150 of the California Welfare and Institutions Code

Dear Clint:

The Academic Council has completed an *informal* review of the proposed amendment to Section 5150 of the California Welfare and Institutions Code and given the limited time allowed, we were not able to conduct a thorough canvassing of our divisions and committees. Consequently, while we are willing to provide informal comment, these comments should not be taken to constitute a formal and thorough Senate response. As we understand it, Section 5150 allows peace officers and designated mental health professionals to detain people for 72 hour observation on the basis of dangerousness (to self or other), or grave disability. The proposal would provide an exception to guarantees of privacy for persons on 5150s who are college or university students residing in university housing. Specifically, it requires hospitals to report timing of discharge and return to housing to "university official's responsibility for housing," upon their request.

Based on the comments received (UCLA, UCSF, CCGA and UCEP), Council cannot support the proposed amendment at this time. First, the proposed change is unlikely to have a broad impact on campus safety as it only affects a small portion of the students at risk (UCSF, CCGA). There is also already a mechanism that may provide campuses with a notification of discharge (e.g., campus peace officers who initiate the 5150) that would not require an amendment to the existing code. The current language also does not include mental health professionals and therefore does not provide for the systematic ongoing monitoring of the student or the student's community (UCSF, UCEP). It is also unclear that housing officials would know of the circumstances that led to the 5150 being issued or the resolution of the situation unless it was because of a police involvement, given that confidentiality precludes health professionals from transmitting that information. It is unclear why the legislation allows for a breach of confidentiality for residential housing staff that we in general society would never allow for apartment house managers, Neighborhood Watch leaders, and MSO's in UC business units.

Second, revealing information about an individual, as proposed in the amendment, could compromise a student's privacy in ways that may increase the potential for self-harm and/or risk of discrimination and have other undesirable consequences. In most cases, the vast majority of students detained would probably be those considered at risk for suicide. In other cases, students may be detained for purely transient events (e.g., drug intoxication and rage). In short, the stigma associated with psychiatric care should not be minimized; the risk of broader social exposure may serve as a further deterrent to care.

Council is also concerned that this amendment is a specific proposal to change state law to uniquely allow campus-housing officials access to information that is deemed protected under federal legislation (UCEP). There may be better ways to discover whether a student is a danger to himself or others than to change state law, expand the power of the state to deprive people of their civil liberties, or inform campus parties about circumstances that may create a stigma or additional difficulties for a student.

Finally, *if* this amendment is enacted, and we hope it is *not*, it would be essential that a clear point of contact between hospitals and campuses be established, and that campus protocols controlling the dissemination of this sensitive information to the few campus staff that require it be clearly delineated (CCGA). As it stands now, this proposal is unclear about how the procedure would be applied on campuses (UCEP).

Please do not hesitate to contact me if you have any questions regarding Council's comments. For your convenience and reference I have enclosed the individual comments from the responding divisions and systemwide Senate committees.

Sincerely,



Michael T. Brown, Chair
Academic Council

Copy: Academic Council
María Bertero-Barceló, Executive Director

Encl. 1



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June 10, 2008

Michael Brown
Chair of the Academic Council
UC Academic Senate

In Re: Review of Proposed Amendment to State Law re 5150 Psychiatric Holds

Dear Michael,

Thank you for the opportunity to review the proposed amendment to state law regarding 5150 psychiatric holds. Due to the response time, I did not send it out for formal Academic Senate review. Rather, I invited the Graduate Council and the Undergraduate Council to review the proposal at their discretion. Moreover, the same item is currently under review administratively at UCLA, with a due date of October 17, 2008. The UCLA Divisional Senate has been invited to opine by the administration, and we will use that opportunity to opine more formally.

One faculty member reviewed the proposal and submitted a response, but she neither endorsed nor opposed the proposal. Still, she has raised some important concerns that, by way of this attachment, I am forwarding to you. This response should not be construed as representing the view of the UCLA Academic Senate, but rather as information for those in at the systemwide level as they develop their response.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth L. Bjork".

Elizabeth Ligon Bjork
UCLA Academic Senate Chair

Cc: María Bertero-Barceló, Executive Director, Chief of Staff
Jaime R. Balboa, Ph.D., UCLA Academic Senate Chief Administrative Officer

From: Wiley, Dorothy [mailto:dwiley@ucla.edu]
Sent: Friday, May 30, 2008 2:09 PM
To: Lacertosa, Judith; Brown, Stuart
Subject: RE: FW: REQUEST FOR CAMPUS REVIEW: Proposed Amendment to State Law re 5150 Psychiatric Holds

In reading the document, I would only be concerned that this legislation provide for protection against *scapegoating*. There are significant ways in which a person might end up in a hospital with a 5150 hold, and some of them may be related to transient events, e.g., drug intoxication, rage. I am always very concerned for the welfare of our students but I am unclear about the genesis of this legislation in the absence of mental health reform at the systems level.

5150's are used for individuals that are a danger to themselves OR others. The 72 hours of forced hospitalization is supposed to be a time to stabilize and determine if the dangerous condition is likely to be ongoing. As was seen with Virginia Tech, those under a 5150 hold are often judged to have stabilized and are released back into the community. In the case of this legislation, the community is the dormitory.

My wonder is why the legislation allows for breach of confidentiality for residential housing staff that we would not provide for other equally responsible entities. We would never allow such a notification for apartment house managers, Neighborhood Watch leaders, and MSO's in UC business units. These are all examples of settings where a dangerous person might act out. I am always troubled by laws predicated on rare events that might have been prevented if we had only looked carefully at our mental health system and the laws that generally are brought to bear when psychotic illness occurs.

Let me know if you believe the Council holds a radically different perspective.

Dottie

Dorothy J. Wiley, PhD
Associate Professor
310-825-0803 (academic office)
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David Gardner, MD, Chair
Elena Fuentes-Afflick, MD, MPH, Vice Chair
Mary J. Malloy, MD, Secretary
Jean Olson, MD, Parliamentarian

COMMUNICATION FROM THE SAN FRANCISCO DIVISION

June 13, 2008

Michael Brown, PhD
Professor and Chair, Academic Council
University of California Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

Re: Proposed Amendment to Section 5150 of the California Welfare and Institutions Code

Dear Chair Brown:

I have received comments from Linda Chafetz, Chair of the UCSF Committee on Educational Policy and Henry Kahn, Director of UCSF Student Health Services regarding the proposed amendment to Section 5150 of the California Welfare and Institutions Code.

Their concerns include the following:

- The proposed change would likely affect only a small portion of the students at risk.
- A mechanism already exists that may provide campuses with a notification of discharge that would not require an amendment to the existing code.
- The current language does not include mental health professionals and therefore does not provide for the systematic ongoing monitoring of the student or the student's community.
- Revealing information about an individual as proposed in the amendment could compromise a student's privacy in ways that may increase the potential for self-harm and/or risk of discrimination.
- Systemwide campus safety and student welfare can be achieved through existing mechanisms without the need for an amendment to the existing code.
- This issue should be the subject of ongoing discussion in the 2008-09 academic year.

I concur with their concerns and encourage further discussion of this issue. The Division appreciates the opportunity to comment on the proposed amendments.

Sincerely,

David Gardner, MD
Chair, UCSF Academic Senate

Enclosure: Review of the Proposed Amendment to Section 5150 of the California Welfare and Institutions Code – June 13, 2008

Communication from the Chair of the Committee on Educational Policy

Linda Chafetz, RN, DNSc, Chair

June 13, 2008

David Gardner, MD
Chair, UCSF Academic Senate
500 Parnassus Avenue, Box 0764

Re: Review of the Proposed Amendment to Section 5150 of the California Welfare and Institutions Code

Dear Chair Gardner,

We appreciate the opportunity to provide an opinion on this proposed change in California law governing involuntary detention. As you know, this was recommended by the Health Workgroup of the Campus Security Task Force, formed after the Virginia "Tech" shootings, in April, 2007. Under current law, Section 5150 of the California Welfare and Institutions code allows peace officers and designated mental health professionals to detain people for 72 hour observation on the basis of dangerousness (to self or other) or grave disability. The proposal would provide an exception to guarantees of privacy for persons on "5150s" that are college or university students and reside in university housing. Specifically, it requires hospitals to report timing of discharge and return to housing to "university official's responsibility for housing", upon their request.

The goals of this proposal are laudable: protection of public safety, greater awareness of individual students at risk and reduced impact of disturbing behavior on residents in university housing. In the first round of campus review of this proposal in 2007, campuses with large undergraduate enrollment spoke about their need to balance students' rights to privacy against public safety considerations. However the UCSF response at that time expressed strong opposition to the specific amendment that has been proposed. We have continuing concerns about it, for the reasons outlined below.

The proposed change is unlikely to have a broad impact on campus safety:

It provides for notification of housing officials upon their request and applies only to admissions known to these officials. There is no provision for notification of other 5150s (e.g., those initiated in the community) and applies exclusively to residents in university housing. University housing is defined so ambiguously it may not apply to student housing that is not administered by the University (e.g., coops, fraternities). In sum, these changes would affect only a small proportion of students at risk.

Only peace officers and designated mental health professionals may initiate a 5150. When these are initiated in student housing or on the larger campus, it is likely that they will be initiated by campus police. The statute states very clearly that peace officers initiating 5150s may request notification of discharge. The use of this mechanism would probably provide information on a broader group of students without an amendment that reduces constitutional protections.

Notification is required for timing of discharge only and not for clinical status. In fact disclosure of clinical information is prohibited. There is no apparent way to alert campus officials to specific needs of students in question (e.g., possible suicidality, disturbing behavior). Further, there is no mechanism

to involve behavioral health personnel, hence no way to systematically provide safety and continuity of care. The type of official to be notified is defined very ambiguously and range from Deans of Students to Residence Assistants with very limited preparation to respond to crisis. It is difficult to see how this would improve overall campus safety.

The proposed amendment may have unintended and highly undesirable consequences:

The stigma associated with psychiatric treatment should not be minimized. The vast majority of individuals detained under provisions of Section 5150 would probably be those considered at risk for suicide. Their decision to seek care is difficult under any circumstances. The risk of broader social exposure may serve as a deterrent to care, essentially raising the risk of self harm. Students who may be dangerous to others, particularly those fitting a "Virginia Tech" stereotype (seclusive, suspicious, angry) would probably be the most unwilling to take this risk.

Disclosure of a psychiatric problem includes risk of negative reactions from peers, faculty, and university officials, none of whom are immune to common fears or beliefs about mental disorders. These can lead to subtle and unintended forms of discrimination that influence academic expectations and evaluations. In the first (2007) round of campus review for this proposed amendment, UCSF commented that "whatever benefit that would result from this change is not worth the new breach of confidentiality for the majority of hospitalized students."

In conclusion, we hope that broad discussion of proposed changes to state law will extend into the coming academic year. At least one system-wide committee (UCEP) plans to discuss this in the fall and an additional proposal for a change in University policy (vs. state law) has been circulated to Student Health Services and Counseling Centers for fall discussion. We acknowledge the need for system wide coordination to assure campus safety and student welfare. Nevertheless, we believe that this can be accomplished through mechanisms within existing laws, with greater probability of success and lower potential for unintended harm.

Sincerely,



Linda Chafetz, RN, DNSc

Professor

Chair, Committee on Educational Policy



Henry Kahn, MD

Clinical Professor WOS

Director, UCSF Student Health Services



COORDINATING COMMITTEE ON GRADUATE AFFAIRS (CCGA)
Bruce Schumm, Chair
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June 18, 2008

**MICHAEL T. BROWN, CHAIR
ACADEMIC COUNCIL**

RE: Proposed Amendment to State Law Regarding 5150 Psychiatric Holds

Dear Michael:

The Coordinating Committee on Graduate Affairs (CCGA) discussed the proposed amendment to State Law regarding 5150 Psychiatric Holds, as well as the attached responses to the proposal, presumably from the ten campuses' mental health staff, at its June meeting.

The issue of graduate student health and welfare is of direct interest to CCGA, and we are grateful to Director Haden for apprising the Senate of these developments. CCGA does not count any mental health experts among its membership, so our comments are based largely on our reading of the attached comments.

In general, CCGA saw great merit in the principle of apprising campuses, in an appropriately controlled way, of the release of students from psychiatric hold. We also note that there were several recurring themes in the comments provided from the campuses that resonated with our membership, and we ask that the proponents of the Amendment consider these carefully as they move forward. In particular, most campuses noted that the Amendment will only cover the fraction of students, small in the case of graduate students that live in Campus housing. CCGA sees merit in most campus's concerns that the proposed Amendment will thus not allow campuses to be apprised of the student's return to campus for the majority of students that are released from involuntary holds. In addition, CCGA also saw merit in some campuses' concerns that they would not know to request information about the release from psychiatric hold unless they were aware of the hold prior to the release.

Finally, there are two issues regarding preparation for the potential passage of the Amendment that, while probably already in place, CCGA would nonetheless like to emphasize the importance of. First, it is essential that a clear point of contact between hospitals and campuses be established, and that campus protocols controlling the dissemination of this sensitive information to the few campus staff that require it be clearly delineated. Second, the proponents of the Amendment should get a clear go-ahead from University Counsel before approaching the legislature with the final draft Amendment that arises from the incorporation of the comments it is receiving.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Bruce Schumm', written in a cursive style.

Bruce Schumm
Chair, CCGA

cc: CCGA
Executive Director Bertero-Barceló



UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY (UCEP)
KEITH WILLIAMS, CHAIR
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June 13, 2008

MICHAEL BROWN, CHAIR
ACADEMIC COUNCIL

**Re: Proposed Amendment to California State Law re: Involuntary Psychiatric Holds
(5150) for College and University Students**

Dear Michael,

The University Committee on Educational Policy (UCEP) recently reviewed a proposed amendment to California state law regarding Involuntary Psychiatric (5150) Holds for college and university students. It would require hospitals that have admitted students for psychiatric holds to inform campus housing officials, upon request, about the timing of their release. UCEP strongly recommends that the University not pursue this amendment until it can be clarified and discussed more fully.

The amendment was recommended originally by the Student Mental Health Work Group, which was formed in the wake of the Virginia Tech massacre to study UC-wide student mental health services and needs. The concerns of the Work Group are understandable, and its excellent recommendations for increasing resources to student mental health services and awareness of mental health issues should be applauded and considered for implementation.

UCEP's major concerns center around the specific proposal to change state law to uniquely allow campus-housing officials access to information that is deemed protected under federal legislation. Additionally, the proposal is unclear about how the procedure would be applied on campuses. These issues are particularly troubling to the faculty on our committee who work in health fields.

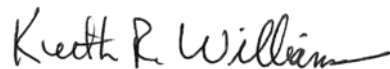
First, changing a state law to create exception to federal legislation to protect privacy related to health care has serious implications for any citizen, and the amendment itself will selectively breach the confidentiality and privacy of residential students. In the absence of more general mental health reform, this action seems unconscionable. We believe there may be better ways to discover whether a student is a danger to himself or others that do not change state law, expand the power of the state to deprive people of their civil liberties, or inform campus parties about circumstances that may create a stigma or additional difficulties for a student. Moreover, we are unsure why it would be acceptable to apply such a law or policy to students and not to faculty or staff. If a faculty member were admitted under a 5150, their MSO would not be notified.

Our understanding is that a 5150 hold is a 72-hour period of detained observation that can be initiated on the basis of a patient being a danger to their self or others, or in the case of grave disability. This provides a clear justification to insurers and others of the immediate need for hospital admission, vs. out-patient care. People are not released from hospitals if they demonstrate evidence of continuing dangerousness after 72 hours and may be further detained under section 5152. Further, if a 5150 is initiated by a peace officer, he or she may request to be notified when the patient is discharged.

It appears that the proposed legislation would allow a campus housing official to be notified when a student with campus housing was being released from a 5150 hold. It does not require psychiatric evaluation or intervention. It is unclear that the housing official would know of the circumstances that led to the 5150 being issued or the resolution of the situation unless it was because of a police involvement, since confidentiality precludes health professionals from transmitting that information. It is also unclear what, specifically, that housing official would do with the information to alleviate risk. It is similarly unclear how this information might affect the student's continued access to housing, rights to privacy, and their ability to re-integrate into campus life. Last, this legislation does nothing to include family, those with significant relationships to the released student, and campus health and welfare officials in the ongoing assistance of our students. Beyond creating a culture of fear, this legislation does nothing to improve the mental health of at risk youth. We are concerned about implementing a law that does not provide more clarity about how the information will be used, particularly where there is not a specific threat to other people.

In short, more information is needed about the scope of this amendment. Both privacy and safety must be protected but also contextualized within a larger framework of mental health reform and care.

Sincerely,

A handwritten signature in black ink that reads "Keith R. Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Keith Williams
Chair, UCEP

cc: UCEP members
Executive Director Bertero-Barceló