

ASSEMBLY BILL

No. 346

Introduced by Assembly Member Nguyen

January 29, 2025

An act to amend Sections 12300.1 and 12309.1 of the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as introduced, Nguyen. In-home supportive services: licensed health care professional certification.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with specified services in order to permit them to remain in their own homes and avoid institutionalization. Existing law defines supportive services for purposes of the IHSS program to include those necessary paramedical services that are ordered by a licensed health care professional, which persons could provide for themselves, but for their functional limitations. Existing law requires an applicant for, or recipient of, in-home supportive services, as a condition of receiving these services, to obtain a certification from a licensed health care professional declaring that the applicant or recipient is unable to perform some activities of daily living independently, and that without services to assist the applicant or recipient with activities of daily living, the applicant or recipient is at risk of placement in out-of-home care, and defines a licensed health care professional to mean an individual licensed in California by the appropriate California regulatory agency, acting within the scope of their license or certificate as defined in the Business and Professions Code.

This bill would instead define “licensed health care professional” for those purposes to mean any person who engages in acts that are the subject of licensure or regulation under specified provisions of the Business and Professions Code or under any initiative act referred to in those specified provisions. The bill would also clarify that as a condition of receiving paramedical services, an applicant or recipient is required to obtain a certification from a licensed health care professional, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12300.1 of the Welfare and Institutions
2 Code is amended to read:

3 12300.1. (a) As used in Section 12300 and in this article,
4 “supportive services” include those necessary paramedical services
5 that are ordered by a licensed health care professional who is
6 lawfully authorized to do so, which persons could provide for
7 ~~themselves~~ themselves, but for their functional limitations.
8 Paramedical services include the administration of medications,
9 puncturing the skin or inserting a medical device into a body
10 orifice, activities requiring sterile procedures, or other activities
11 requiring judgment based on training given by a licensed health
12 care professional. These necessary services shall be rendered by
13 a provider under the direction of a licensed health care professional,
14 subject to the informed consent of the recipient obtained as a part
15 of the order for service. Any and all references to Section 12300
16 in any statute heretofore or hereafter enacted shall be deemed to
17 be references to this section. All statutory references to the
18 supportive services specified in Section 12300 shall be deemed to
19 include paramedical services.

20 (b) *For purposes of this section, “licensed health care*
21 *professional” has the same definition as “health care*
22 *practitioner,” as defined in Section 680 of the Business and*
23 *Professions Code.*

24 SEC. 2. Section 12309.1 of the Welfare and Institutions Code
25 is amended to read:

26 12309.1. (a) (1) As a condition of receiving services under
27 this article, *including, but not limited to, paramedical services, or*

1 Section 14132.95 or 14132.952, an applicant for or recipient of
2 services shall obtain a certification from a licensed health care
3 professional, including, but not limited to, a physician, physician
4 assistant, regional center clinician or clinician supervisor,
5 occupational therapist, physical therapist, psychiatrist, psychologist,
6 optometrist, ophthalmologist, or public health nurse, *or a nurse*
7 *or nurse practitioner who is working under the direction of the*
8 *licensed health care professional*, declaring that the applicant or
9 recipient is unable to perform some activities of daily living
10 independently, and that without services to assist the applicant or
11 recipient with activities of daily living, the applicant or recipient
12 is at risk of placement in out-of-home care.

13 ~~(1) For purposes of this section, a licensed health care~~
14 ~~professional means an individual licensed in California by the~~
15 ~~appropriate California regulatory agency, acting within the scope~~
16 ~~of their license or certificate as defined in the Business and~~
17 ~~Professions Code.~~

18 *(2) For purposes of this section, “licensed health care*
19 *professional” has the same definition as “health care*
20 *practitioner,” as defined in Section 680 of the Business and*
21 *Professions Code.*

22 ~~(2)~~
23 (3) Except as provided in subparagraph (A) or (B), or
24 subdivision (c), the certification shall be received prior to service
25 authorization, and services shall not be authorized in the absence
26 of the certification.

27 (A) Services may be authorized prior to receipt of the
28 certification when the services have been requested on behalf of
29 an individual being discharged from a hospital or nursing home
30 and services are needed to enable the individual to return safely
31 to their home or into the community.

32 (B) Services may be authorized temporarily pending receipt of
33 the certification when the county determines that there is a risk of
34 out-of-home placement.

35 ~~(3)~~
36 (4) The county shall consider the certification as one indicator
37 of the need for in-home supportive services, but the certification
38 shall not be the sole determining factor.

39 ~~(4)~~

1 (5) The *licensed* health care professional's certification shall
2 include, at a minimum, both of the following:

3 (A) A statement by the ~~professional, as defined in subdivision~~
4 ~~(a),~~ *licensed health care professional* that the individual is unable
5 to independently perform one or more activities of daily living,
6 and that one or more of the services available under the IHSS
7 program is recommended for the applicant or recipient, in order
8 to prevent the need for out-of-home care.

9 (B) A description of any condition or functional limitation that
10 has resulted in, or contributed to, the applicant's or recipient's
11 need for assistance.

12 (b) The department, in consultation with the State Department
13 of Health Care Services and with stakeholders, including, but not
14 limited to, representatives of program recipients, providers, and
15 counties, shall develop a standard certification form for use in all
16 counties that includes, but is not limited to, all of the conditions
17 in paragraph ~~(4)~~ (5) of subdivision (a). The form shall include a
18 description of the In-Home Supportive Services program and the
19 services the program can provide when authorized after a social
20 worker's assessment of eligibility. The form shall not, however,
21 require *licensed* health care professionals to certify the applicant's
22 or recipient's need for each individual service.

23 (c) The department, in consultation with the State Department
24 of Health Care Services and stakeholders, ~~as defined~~ *described* in
25 subdivision (b), shall identify alternative documentation that shall
26 be accepted by counties to meet the requirements of this section,
27 including, but not limited to, hospital or nursing facility discharge
28 plans, minimum data set forms, individual program plans, or other
29 documentation that contains the necessary information, consistent
30 with the requirements specified in subdivision (a).

31 (d) The department shall develop a letter for use by counties to
32 inform recipients of the requirements of subdivision (a). The letter
33 shall be understandable to the recipient, and shall be translated
34 into all languages spoken by a substantial number of the public
35 served by the In-Home Supportive Services program, in accordance
36 with Section 7295.2 of the Government Code.

37 (e) This section does not apply to a recipient who is receiving
38 services in accordance with this article or Section 14132.95 or
39 14132.952 on the operative date of this section until the date of

1 the recipient's first reassessment following the operative date of
2 this section, as provided in subdivision (g).

3 (1) The recipient shall be notified of the certification requirement
4 before or at the time of the reassessment, and shall submit the
5 certification within 45 days following the reassessment in order
6 to continue to be authorized for receipt of services.

7 (2) A county may extend the 45-day period for a recipient to
8 submit the medical certification on a case-by-case basis, if the
9 county determines that good cause for the delay exists.

10 (f) A licensed health care professional shall not charge a fee
11 for the completion of the certification form.

12 (g) This section shall become operative on the first day of the
13 first month following 90 days after the effective date of Chapter
14 8 of the Statutes of 2011, or July 1, 2011, whichever is later.

15 (h) The State Department of Health Care Services shall provide
16 notice to all Medi-Cal managed care plans, directing the plans to
17 assess all Medi-Cal recipients applying for or receiving in-home
18 supportive services, in order to make the certifications required
19 by this section.

20 (i) If the Director of Health Care Services determines that a
21 Medicaid State Plan amendment is necessary to implement
22 subdivision (b) of Section 14132.95, this section shall not be
23 implemented until federal approval is received.