

# WHO CAN CERTIFY A CLIENT'S DISABILITY?

SANTA MARIA / SANTA BARBARA COUNTY CONTINUUM OF CARE

## BACKGROUND

Many HUD-funded programs are required to serve chronically homeless people as a condition of their funding. In order to classify a household as chronically homeless, agencies must be able to provide evidence that the head of that household has a disability. For at least 75% of cases, that evidence must include third-party documentation of the disability, such as a signed declaration from a qualified healthcare professional. However, it is not always clear *who* counts as a suitable professional.

24 C.F.R. § 578.103(a)(4)(i)(B)(1) states that acceptable evidence includes “written verification of the disability from a professional licensed by the state to diagnose and treat the disability.” This raises a new question: in California, who is licensed to diagnose and treat disabilities?

## DOCTORS AND PSYCHOLOGISTS

All physicians, surgeons, osteopaths, doctors, psychologists, psychotherapists, and psychiatrists are qualified to diagnose and treat disabilities, so all of these professions are allowed to sign off on a disability verification form.

## NURSES AND PHYSICIANS' ASSISTANTS

Nurse practitioners, physicians' assistants, and other “physician extender” professions are qualified to diagnose and treat disabilities, so all of these professions are allowed to sign off on a disability verification form for HUD purposes. (If you want to have a nurse or PA certify disability in order to help a client collect Social Security purposes, please check the ongoing debate at <https://www.gpo.gov/fdsys/pkg/FR-2016-09-09/pdf/2016-21358.pdf>.)

Registered nurses who are not nurse practitioners *might* be able to sign a disability form, because they are required and authorized to “assess patient condition” and to “plan, supervise, and evaluate” the provision of nursing care. Cal. Bus. & Prof. Code § 2725; C.C.R. Title 22, § 70215. Arguably, assessing patient condition and supervising patient care counts as diagnosing and treating a disease. However, the regulations do not appear to use the words “diagnose” or “treat” when describing what duties registered nurses may perform, so it is not a best practice to use registered nurses to evaluate disability.

For the same reason, using licensed vocational nurses, psychiatric technicians, or certified nurses' assistants to certify disability is not permitted. In addition, the California regulations on licensed vocational nurses explicitly provide that “this chapter confers no authority to...undertake the prevention, treatment or cure of disease...deformity, or mental or physical condition.” Cal. Bus. & Prof. Code § 2860.

## SOCIAL WORKERS

Licensed clinical social workers, licensed professional clinical counselors, licensed marriage and family therapists, and licensed educational psychologists are all qualified to diagnose and treat various kinds of disabilities rooted in mental or behavioral health conditions, so these professionals are allowed to sign off on a disability form as long as the disability has some plausible connection with the professional's field of expertise. The powers of each of these types of professional are discussed in different chapters of Division 2 of the California Business & Professions Code. See §4996 *et seq.* (LCSWs), §4999.30 *et seq.* (LPCCs), §4980.36 (LMFTs), and §4989.20 *et seq.* (LEPs).

Ordinary social workers who do not have a clinical license, even if they have a master's degree and/or many years of experience, are probably not authorized to certify disability for HUD purposes. Although case managers and residential counselors may need to assess a client's disabilities in order to do their jobs, California has not written any regulations that would give these social workers the legal power to diagnose or treat a disability, and so non-clinical social workers should not be used to sign disability verification forms.

## ALCOHOL AND OTHER DRUG COUNSELORS

California law recognizes a category of addiction counselor called the "alcohol or other drug counselor." These counselors are typically required to complete over a hundred hours of addiction-specific education, plus over a thousand hours of supervised clinical experience, and then pass a formal licensing exam. See 9 C.C.R. §13000 *et seq.*, and SAMHSA's Technical Assistance Publication Series 21 ("TAP 21"). The only three organizations authorized to offer this exam in California are:

1. Addiction Counselor Certification Board of California, affiliated with the California Association for Alcohol/Drug Educators (CAADE)
2. California Association of DUI Treatment Programs (CADTP)
3. California Consortium of Addiction Programs and Professionals (CCAPP)

There are other legitimate training and certificate programs for addiction counseling in California, and someone may be a valuable caregiver in your community even if they did not graduate from an institution that was accredited by CAADE, CADTP, or CCAPP. However, if a drug and alcohol counselor does not have a properly accredited certificate from one of these three organizations, then they cannot sign disability verification forms for HUD. If you use a drug or alcohol counselor to verify clients' diagnoses of substance abuse disorder, please check with that counselor to confirm that the counselor's certificate is accredited by one of these three organizations.

Note that the mere fact that a client is intoxicated when they arrive at your program does not automatically mean that the client has enough of a substance abuse disorder to qualify as a disability. All chronically homeless clients require evaluation by a health care professional to determine whether they have a disability, even clients who are currently using drugs and clients who were arrested or hospitalized for using drugs.

SUMMARY

Can Certify a Disability		Doubtful; Not a Best Practice	Cannot Certify Disabilities
MD	DO	RN	LVN
PsyD	PsyM		CNA
NP	PA		Psychiatric Technicians
LCSW	LPCC		Non-Clinical Social Workers
LEP	LMFT		Clients (no self-certification)
Addiction counselors with certificates from CAADE, CADTP, or CCAPP			Other addiction counselors