



Therapeutic Diet Order Writing in Hospitals and Long Term Care Frequently Asked Questions

Developed by NYSAND –CMS Order Writing Task Force, November 2019

1. With the CMS ruling on writing Therapeutic Diet Orders issued in July 2014, is it okay for a RD/RDN in New York State to now write orders for patients in a hospital?

New York is categorized as a “yellow state” by the Academy. There are a number of steps that must be completed before a RD/RDN in New York can include writing nutrition orders in their practice at a hospital. To be in regulatory compliance to do this, changes will need to be made in two NY State Departments i.e. Health and Education. Once these regulatory changes are achieved, each hospital’s medical staff will need to approve the privilege of writing nutrition orders to include a RD/RDN.

2. I work in a long-term care facility and heard CMS has changed the regulations and now allows RDN’s to have nutrition order writing privileges. What is the current status of the LTC regulation in NYS?

483.30(e)(2) A “resident’s” attending physician may delegate the task of writing dietary orders consistent with 483.60, to a qualified dietitian or other clinically qualified nutrition professional who –

- (i) Is acting within the scope of practice as defined by State law; and
- (ii) Is under the supervision of the physician

483.30(4) A physician may not delegate a task when the regulations specify that the physician must perform it personally, or when the delegation is prohibited under State Law or by the facility’s own policies.

At this time NYS does not have approved regulations that will allow LTC dietitians to have order writing privileges.

3. If you are a RD/RDN in a hospital/LTC in New York State, do you need to have your CDN in order to have the CMS order writing privilege?

In New York the CDN credential is required in order to obtain a Medicare Provider number. This would strongly suggest that the individual should have the CDN credential and is one of the regulatory clarifications that will need to be determined.

4. Where can I find information about obtaining the CDN credential?

Details about certification are at: www.op.nysed.gov/prof/diet/dietlic.htm

5. If I do not have my CDN now should I pursue it now or should I wait?

Obtaining the CDN can take some time so you should start the process now. Although licensure is a goal for dietitians in New York, it has not yet been achieved. It is anticipated that when it occurs, qualified dietitians that have the CDN, will have the opportunity to be “grandfathered” into the anticipated LDN credential.

6. If you are working in a hospital that already had approved RD/RDN order writing privileges prior to the 2014 ruling – are there any actions you should take at this time?

Review this with your Quality/Regulatory Department for guidance. Until New York State regulations allow RD/RDN nutrition order writing, continuing to allow such practice can put your institution in regulatory jeopardy.

7. Is it recommended that we move forward on seeking RD/RDN order writing privileges, within each hospital, despite the current inability in NY State to implement this CMS privilege?

While you should not currently move forward with performing order writing privileges, you should be advocating through your hospital medical team for support of the therapeutic diet order bills, including seeking letters of support. Educate them on the intent of the bill and the expected outcomes within your individual hospital.

8. Is there anything I can do – while waiting for the regulatory changes that have been described to be approved?

Review your current practice and develop a clear plan to assure and describe why you are competent to write nutrition orders. Build your relationships with the medical staff to be a consistent, helpful resource to meet the nutritional needs of patients. Pursue additional training and/or credentials that are valued by medical staff to assure your competence. Develop your advocacy initiative within your hospital getting support of the administration and medical teams.

9. Are there any suggestions for getting the process started?

Determine strategic collaborations within the hospital that will help you achieve this change such as: the medical staff credentialing office, quality department, human resources and/or the facility regulatory official. Titles may vary depending on the facility.

10. What information should I be ready to provide to help build an understanding of the request to obtain the nutrition order writing privilege?

Collect examples of delayed orders, i.e., change from a regular diet to a consistent carbohydrate that delays provision of care, meal service and/or discharge and patient dissatisfaction related to nutrition orders that resulted in delay in care, extended length of stay etc.

11. If approval is received from New York State that a RD/RDN may request the CMS nutrition order writing privilege within the hospital (delegation in LTC) where they work, what specific orders will they be able to write?

This is the current list that we are using in our discussions with the New York State Departments of Education and Health: Nutrition orders, including but not limited to orders for diets, enteral nutrition, parenteral nutrition, oral nutrition supplements, medical nutrition foods, dietary supplements, vitamins, minerals, texture modifications heights/weights, and laboratory tests to monitor the effectiveness of the nutrition care plan.

12. Is it okay for dietitians to take a verbal order from a Provider (MD, DO, PA, NP) to change a nutrition order?

CMS does not allow any staff including nurses or health care professional to take verbal orders unless it is an **emergency** situation and then that emergency must be documented. It is highly unlikely that a nutrition order would be deemed as an emergency situation.

13. Based on the current CDN credentialing in NYS, is there oversight for reporting improper dietetics practice at the state level?

Yes – The NYSED – Office of the Professions – under the authority of the Board of Regents - outlines a plethora of unprofessional conduct descriptors. If there is a (unprofessional conduct) concern an electronic complaint form is available to complete and submit. This form may be found at www.op.nysed.gov/opd/complain - or you may call 1-800-442-8106 or email to report a complaint. Email is conduct@mail.nysed.gov.

14. CMS made this change in July-2014, I find it frustrating that there are always barriers to implementing what was a long overdue change. What can we do to overcome these barriers?

This was a landmark advisory that the Academy has sought for years and yet it is not perfect. The process of change takes time due to the number of details. One of the components of facilitating any change is to have hospital dietitians clearly describe situations (with attention to HIPPA) that result in harm to the patient, increase costs or delayed discharge because this ruling was not in effect. Evidenced based data and statistics are important in providing care for patients. It is essential that dietitians collect this data and use it as an opportunity to advocate for the RDN services improving patient care on a daily basis. As a profession, we are hesitant to speak out regarding our expertise and yet documentation of the excellent nutrition care and the improved patient outcomes as a result of RDN services in hospitals can add significant value in soliciting support of the dietetic profession and the TDO bills. Please share your valuable hospital data and statistics with NYSAND leaders with an email to the Central Office at NYSAND@caphill.com. Please note in the subject area “Data to Support CMS Order Writing”.

Disclaimer: The information contained in this document is based on what is currently known through research completed by the NYSAND CMS Task Force.