



**Therapeutic Diet Order Writing Privileges:  
Protecting the Public (especially those receiving care in a hospital or long-term care facility)**

**Goals:**

- Protect the public through delivery of the most appropriate diet/nutrition while in a hospital or long-term care facility
- Increase efficiency of operations related to food and nutrition in hospitals and long-term care facilities

**Same as bills** to amend NYS Department of Education Law establishing certification of nutritionists/dietitians (Education Law Article 157)

- Senate bill **S3330**
- Assembly bill **A6398**

**Language of Amendment to our Current Certification Law:**

“Notwithstanding any other provision of law to the contrary, a **certified dietitian or certified nutritionist may prescribe, order, write, review, evaluate, monitor and manage therapeutic diets, including enteral and parenteral nutrition**, in hospitals, including diagnostic center, treatment center, or hospital-based outpatient department, residential health care facility or nursing home of any other facility as defined in section twenty-eight hundred one of the public health law **when competency is determined by the medical director or governing body of such facility.**”

**Why now:**

Ruling by the Centers for Medicare/Medicaid in May 2014 indicates that nutrition professionals are the best qualified health care providers to deliver medical nutrition therapy, including writing diet orders, and permits hospitals/long-term care facilities to extend therapeutic diet order writing privileges/designation to professional nutritionists/RDs. They estimate that \$549 million annually would be saved nationally if facilities granted such privileges to nutrition professionals.

- In NYS, dietitians/nutritionists are “certified” NOT “licensed” and therefore the CMS ruling does not apply, unless the NYS Education law covering our certification is amended. In most other states RDs are licensed and already writing diet orders.

**Important Points:**

- The proposed legislation is **permissive**, allowing hospitals and long-term care facilities to privilege/designate RDs to write diet orders, but NOT mandating them to do so.
- The proposed legislation is **inclusive**, allowing RDs to join other licensed providers who can write diet orders, such as MDs, NPs and PAs.
- The following terms need to be included in the amendment for practical implementation:
  - “order” - necessary for RN to be able to administer the diet/tube feeding RDs order) and
  - “prescribe” - necessary for pharmacists to dispense parenteral (or intravenous) nutrition.

Here is the pertinent part of the CMS ruling:

ensured. Therefore, we proposed revisions to § 482.28(b)(1) and (2) that would require that individual patient nutritional needs be met in accordance with recognized dietary practices. We would make further revisions that would allow for flexibility in this area by requiring that all patient diets, including therapeutic diets, must be ordered by a practitioner responsible for the care of the patient, or by a qualified dietitian or other clinically qualified nutrition professional as authorized by the medical staff and in accordance with State law. We believe that hospitals that choose to grant these specific ordering privileges to RDs may achieve a higher quality of care for their patients by allowing these professionals to fully and efficiently function as important members of the hospital patient care team in the role for which they were trained. In the proposed rule, we stated that we believe hospitals would realize significant cost savings in many of the areas affected by nutritional care.

# FEDERAL REGISTER

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Part IV

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 413, 415, 440 et al.  
Medicare and Medicaid Programs; Regulatory Provisions To Promote  
Program Efficiency, Transparency, and Burden Reduction; Part II: Final  
Rule

## LTC Regulations

### The Rule

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.

F715 Physician delegation to Dietitian  
F808 Therapeutic Diet Prescribed by Physician