Commission on Dietetic Registration
the credentialing agency for the Academy of Nutrition and Dietetics

PRACTICE TIPS: Regulations Impacting Practice for RDNs and NDTRs in Long-Term Care Facilities

Key Information on the Long-Term Care Regulations based on Final Rule effective 11/28/2017 and Subsequent Revisions through Rev. 225, 08-08-24

History:

The Long-Term Care Final Rule, published October 4, 2016, made significant changes to the Centers for Medicare & Medicaid Services (CMS) State Operations Manual (SOM) Appendix PP regulations including outlining the attending physician may delegate prescribing a resident's diet to a qualified dietitian or other clinically qualified nutrition professional. The Final Rule stated the regulations were rolled out in three phases from November 28, 2016, through November 28, 2019.

- Link to the Final Rule - Crosswalk: Table 1: Title 42 Cross-Reference to Part 483 Subpart B in the final rule lists the previous and new regulations. CMS Final Rule link is as follows: https://www.federalregister.gov/documents/2016/10/04/2016-23503/medicare-and-medicaidprograms-reform-of-requirements-for-long-term-care-facilities
- CMS released the revised SOM Appendix PP – Guidance to Surveyors for Long Term Care Facilities effective November 28, 2017. Refer to the Transmittal below that provides detailed information on all the changes. Search by regulation number, Food and Nutrition, dietitian, delegation, nutritional and dietary supplements.
  - Transmittal R173 11/22/17 https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2017Downloads/R173SOMA.pdf
- Listing of some of the changes including subsequent revisions up to current regulations impacting dietitians or Food and Nutrition Services:
  - Rev. 173, 11-22-17 – reflects service, responsibilities and job function changes in regulations pertaining to food and nutrition services, dietitians, and other nutrition professionals which includes nutrition and dietetics technicians, registered (NDTRs) as well as support and administrative staff in long-term care facilities.
    - Because of the Final Rule, most regulation groups were re-designated and have new numbers, e.g., Food and Nutrition Services changed from §483.35 to §483.60.
    - F-Tags were revised with new numbers and to include the requirements and regulation text as is presented in the final rule.
    - §483.30(e)(2) Physician delegation of tasks in SNFs. Addresses delegation of the task of writing dietary orders, consistent with §483.60, to a qualified dietitian or other clinically qualified nutrition professional. See F-Tag 715 (pg, 472). No changes with Rev. 225, 08-08-24.
    - §483.60(a) Staffing- NDTRs qualify to serve as the director of food and nutrition services under section (2)(i) D as they have an associate's or higher degree if the course of study includes food service or restaurant management from an accredited institution of higher learning.

Revised September 2024

- Rev. 207, 09-30-22 - Updated Food and Nutrition §483.60 (a)(2)(i)(E) Staffing (page 630 with addition of section (E); pg 631 Guidance for §483.60(a)(1)-(2).
- Rev. 211, 02-03-23 – Updated guidance to §483.60(i) Food Safety Requirements (pg 654-675)
- Rev. 255, 08-08-24 – Added a new section §483.71 Facility Assessment to the regulations that edited a section number included in Food and Nutrition Services §483.60 (a) Staffing; did not change the actual wording of the regulation.

Keep current with the CMS SOM Appendix PP Guidance to Surveyors for Long Term Care Facilities, particularly if your practice area is Post-Acute and Long-Term Care Nutrition.

- Review the Standards of Practice and Standards of Professional Performance for RDNs in Post-Acute and Long-Term Care Nutrition to evaluate current level of practice, identify knowledge and skills to strength, if necessary, and to identify useful resources in the Resource Figure. The 2024 Revised Scope and Standards for RDNs in Post-Acute and Long-Term Care Nutrition will be published at the end of December or January 2025. See www.cdrnet.org/focus
- In addition, review the State Practice Act, Certification, or Title Protection laws for Dietitian Nutritionist for the State(s) in which you provide care and services.
  - Find the State Law – Practice Acts, Title Protection or Certification via the State Licensure Agency Contact List link: https://www.cdrnet.org/LicensureMap
  - The outcome of the review will determine how a registered dietitian nutritionist (RDN) or nutrition and dietetics technician, registered (NDTR) practitioner, who is licensed or certified in the State, may need to proceed.

To access the current CMS SOM Appendix PP, use this link: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf

- Note: When revisions are made in the State Operations Manual (SOM), Appendix PP Revised Regulations and Tags since the last revision, they are written in red color (changed to black type with next revision).
- Contact the **Academy's State Affiliate** to work with the RDN members of the Public Policy Panel if you have questions about the latest update with implications for food and nutrition services or RDN or NDTR practice. **Use the Affiliate** link to select your State (member log in required): https://www.eatrightpro.org/career/academy-groups

Review the Summary Table of SOM Appendix PP Long Term Care Regulations

- Listed below are highlighted sections applicable to Food and Nutrition Services, RDNs and NDTRs in the SOM Appendix PP that changed with the November 28, 2017, and subsequent revisions. Terminology listed below with definitions that follow the chart are starred (*). Below are select sections, please **review all** appropriate sections of the SOM Appendix PP for information applicable to your job and position such as Resident Rights, Resident Assessment (note timeframes), Quality of Care (care plan, skin integrity, nutrition and hydration, pressure ulcer, dialysis, hospice).

Section	F-Tag and Page No.	Information
§483.21(b) Comprehensive Care Plans	F657, F658 Pages 246-251	(2) A compressive care plan must be- • (i) Developed within 7 days after completion of the comprehensive assessment • (ii) Prepared by an interdisciplinary team, that includes but is not limited to— a) The attending physician. b) A registered nurse with responsibility for the resident. c) A nurse aid with responsibility for the resident. d) A member of the food and nutrition services staff. e) To the extent practicable, the participation of the resident and the resident's representative(s). An explanation must be included in a resident's medical record if the participation of the resident and their resident representative is determined not practicable for the development of the resident's care plan. f) Other appropriate staff or professionals in the disciplines as determined by the resident's needs or as requested by the resident. • (iii) Reviewed and revised by the interdisciplinary team after each assessment, including both the comprehensive and quarterly review assessments. §483.21(b)(3) Comprehensive Care Plan The services provided or arranged by the facility, as outlined by the comprehensive care plan, must— (i) Meet professional standards of quality. Intent: The intent of this regulation is to assure that services being provided meet professional standards of quality. Guidance: "Professional standards of quality" means that care and services are provided according to accepted standards of clinical practice. • Standards may apply to care provided by a particular clinical discipline or in a specific clinical situation or setting. • Standards regarding quality care practices may be published by a professional organization, licensing board, accreditation body or other regulatory agency. • Recommended practices to achieve desired resident outcomes may also be found in clinical literature. • Possible reference sources for standards of practice include: o Current manuals or textbooks on nursing, social work, physical therapy, etc. o Standards published by professional organizations such as the American Dietetic Association *(now the Academy of Nutrition and Dietetics)*, American Medical Association, American Medical Directors Association *(now AMDA-The Society for Post-Acute and Long-Term Care Medicine (effective August 2024 now the Post-Acute and Long-Term Care Medical Association [PALTmed])*, American Nurses

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		Association, National Association of Activity Professionals, National Association of Social Work, etc. o Clinical practice guidelines published by the Agency for Health Care Policy and Research. o Current professional journal articles
§ 483.25(g) Assisted nutrition and hydration.	F692 Pages – 371-374	(Includes naso-gastric and gastrostomy tubes, both percutaneous endoscopic gastrostomy and percutaneous endoscopic jejunostomy, and enteral fluids). Based on a resident's comprehensive assessment, the facility must ensure that a resident— (1) Maintains acceptable parameters of nutritional status*, such as usual body weight or desirable body weight range and electrolyte balance, unless the resident's clinical condition demonstrates that this is not possible or resident preferences indicate otherwise; (2) Is offered sufficient fluid intake to maintain proper hydration and health; (3) Is offered a therapeutic diet* when there is a nutritional problem and the health care provider* orders a therapeutic diet. <u>Intent</u> The intent of this requirement is that the resident maintains, to the extent possible, acceptable parameters of nutritional and hydration status and that the facility: • Provides nutritional and hydration care and services to each resident, consistent with the resident's comprehensive assessment; • Recognizes, evaluates, and addresses the needs of every resident, including but not limited to, the resident at risk or already experiencing impaired nutrition and hydration; and • Provides a therapeutic diet* that takes into account the resident's clinical condition, and preferences, when there is a nutritional indication. <u>Guidance</u>: Weight loss, poor nutritional status, or dehydration should be considered avoidable unless the facility can prove it has assessed/reassessed the resident's needs, consistently implemented related care planned interventions, monitored for effectiveness, and ensured coordination of care among the interdisciplinary team.
§483.30(b) Physician Visits	F711 Pages 460	<u>Guidance</u>: Except where the regulation specifies the task must be completed personally by the physician, the term "attending physician" or "physician" also includes a non-physician practitioner (NPP) involved in the management of the resident's care, to the extent permitted by State law. During visits, the physician must also sign and date all orders, with the exception of influenza and pneumococcal vaccinations, which may be administered per physician-approved facility policy after an assessment for contraindications. This includes co-signing orders written by NPPs, qualified

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		dietitians*, other clinically qualified nutrition professionals and qualified therapists, as required by state law.
§483.30(e) Physician delegation of tasks in SNFs	F714 Page 469	(1) - Except as specified in paragraph (e)(4) of this section, a physician may delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who— • (i) Meets the applicable definition in §491.2 of this chapter or, in the case of a clinical nurse specialist, is licensed as such by the State; • (ii) Is acting within the scope of practice as defined by State law; and • (iii) Is under the supervision of the physician.
§483.30(f) Performance of physician tasks in NFs	F714 Page 469	At the option of State, any required physician task in a NF (including tasks which the regulations specify must be performed personally by the physician) may also be satisfied when performed by a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician.
§483.30(e) Physician delegation of tasks in SNFs.	F715 Pages 472	(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. (3) - A resident's attending physician may delegate the task of writing therapy orders, consistent with §483.65, to a qualified therapist who— • (i) Is acting within the scope of practice as defined by State law; and • (ii) Is under the supervision of the physician (4, pg 469) - 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. (pg 473) Guidance (483.30 (e)(2)-(3): Physicians and NPPs may delegate the task of writing orders to qualified dietitians* or clinically qualified nutrition professionals and qualified therapists if the State practice act allows the delegation of the task, and the State practice act for the qualified individual being delegated the task of writing orders permits such performance. . . .Dietary orders written by a qualified dietitian*/clinically qualified nutrition professional, or therapy orders written by therapists, do not require co-signature, except as required by State law.
§483.60 Food and nutrition services.	F800 Page 629	The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets his or her daily nutritional and special dietary needs, taking into consideration the preferences of each resident.
§483.60(a) Staffing	F801 Pages 629-631	The facility must employ sufficient staff with the appropriate competencies and skills sets to carry out the functions of the food and nutrition service, taking into consideration resident assessments, individual plans of care and the

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		number, acuity and diagnoses of the facility's resident population in accordance with the facility assessment required at §483.70(e) *§483.60 (a)(2) If a qualified dietitian or other clinically qualified nutrition professional is not employed full-time, the facility must designate a person to serve as the director of food and nutrition services.* • *(i) The director of food and nutrition services must at minimum meet one of the following qualifications --* *A. A certified dietary manager; or* *B. A certified food service manager; or* *C. Has similar national certification for food service management and safety from a national certifying body; or* *D. Has an associate's or higher degree in food service management or in hospitality, if the course study includes food service or restaurant management, from an accredited institution of higher learning; or* E. ***Effective October 1, 2022*** *-- Has 2 or more years of experience in* the position of director of food and nutrition services in a nursing facility setting and has completed a course of study in food safety and management, by no later than October 1, 2023, that includes topics integral to managing dietary operations including, but not limited to, foodborne illness, sanitation procedures, and food purchasing/receiving; and • (ii) In States that have established standards for food service mangers or dietary managers, meets State requirements for food service managers or dietary managers, and • (iii) Receives frequently scheduled consultations from a qualified dietitian or other clinically qualified nutrition professional.
§483.60(b)	F802 Page 633	A member of the Food and Nutrition Services staff must participate on the interdisciplinary team as required in §483.21(b)(2)(ii).
§483.60(c) Menus and nutritional adequacy.	F803 Page 633-636	Menus must (4) Reflect, based on facility's reasonable efforts, the religious, cultural and ethnic needs of the resident population, as well as input received from residents and resident groups. (6) Be reviewed by the facility's dietitian or other clinically qualified nutritional professional for nutritional adequacy.
§483.60(d) Food and drink.	F806 Pages – 638-639	(4) Food that accommodates resident allergies, intolerances, and preferences; (5) Appealing options of similar nutritive value to residents who choose not to eat food that is initially served or who request a different meal choice
§483.60(e) Therapeutic Diets*	F808 Pages 641-642	(1) Therapeutic diets* must be prescribed by the attending physician. (2) The attending physician may delegate to a registered or licensed dietitian the task of prescribing a resident's diet, including a therapeutic diet*, to the extent allowed by State law.

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		(Pg 641) NOTE: The terms "attending physician" or "physician" also includes a non-physician provider (physician assistant, nurse practitioner, or clinical nurse specialist) involved in the management of the resident's care. Guidance: If the resident's attending physician delegates this task he or she must supervise the dietitian and remains responsible for the resident's care even if the task is delegated. The physician would be able to modify a diet order with a subsequent order, if necessary.
§483.60(f) Frequency of Meals	F809 Pages – 642-643	
§483.60(g) Assistive devices	F810 Page— 643	Guidance: The facility must provide appropriate assistive devises to residents who need them to maintain or improve their ability to eat or drink independently, for example, improving poor grasp by enlarging silverware handles with foam padding, aiding residents with impaired coordination or tremor by installing plate guards, or specialized cups. The facility must also provide the appropriate staff assistance to ensure that these residents can use the assistive devices when eating or drinking.
§483.60(h) Paid feeding assistants	F811 Pages 644-649	
§483.60(i) Food safety requirements	F812 Pages – 652	**With Rev. 211, 02-03-23**, updates were made to §483.60(i) (1) (2) in Definitions (Food Distribution, Food Service-Meal Service), Guidance (pg 654); and sections addressing Hair Restraints/Jewelry/Nail Polish (pg 658), Food Distribution (pg 653, 662), and Food Service (pg 653, 662).
§483.75(a) Quality assurance and performance improvement (QAPI) program.	F865 Pages – 746-731	Each LTC facility, including a facility that is part of a multiunit chain, must develop, implement, and maintain an effective, comprehensive, data-driven QAPI program that focuses on indicators of the outcomes of care and quality of life. The facility must: §483.75(a)(2) Present its QAPI plan to the State Survey Agency no later than 1 year after the promulgation of this regulation [§483.75(a)(2) implemented November 28, 2017 (Phase 2)]. **Revision 211, 02-03-23** updated Intent, Definitions, Guidance, Program and Documentation, Program Design and Scope, Governance and Leadership and other sections within §483.75.

DEFINITIONS

Select definitions are provided to clarify clinical terms related to nutritional status.

"**Acceptable parameters of nutritional status**" refers to factors that reflect that an individual's nutritional status is adequate, relative to his/her overall condition and prognosis, such as weight, food/fluid intake, and pertinent laboratory values.

"**Artificial nutrition and hydration**" are medical treatments and refer to nutrition that is provided through routes other than the usual oral route, typically by placing a tube directly into the stomach, the intestine, or a vein.

"**Clinically significant**" refers to effects, results, or consequences that materially affect or are likely to affect an individual's physical, mental, or psychosocial well-being either positively by preventing, stabilizing, or improving a condition or reducing a risk, or negatively by exacerbating, causing, or contributing to a symptom, illness, or decline in status.

"**Dietary supplements**" refers to herbal and alternative products that are not regulated by the Food and Drug Administration and their composition is not standardized. Dietary supplements must be labeled as such and must not be represented for use as a conventional food or as the sole item of a meal or the diet.

"**Health Care Provider**" includes a physician, physician assistant, nurse practitioner, or clinical nurse specialist, or a qualified dietitian* or other qualified nutrition professional acting within their state scope of practice and to whom the attending physician has delegated the task. For issues related to delegation to dietitians, refer to §483.60(e)(2), F808 (pg 641).

"**Mechanically altered diet**" means one in which the texture of a diet is altered. When the texture is modified, the type of texture modification must be specified and part of the physicians' or delegated registered or licensed dietitian order.

"Non-physician practitioner (NPP)" is a nurse practitioner (NP), clinical nurse specialist (CNS), or physician assistant (PA) as defined above.

"**Nourishing snack**" means items from the basic food groups, either singly or in combination with each other.

"**Nutritional status**" includes both nutrition and hydration status.

"**Nutritional Supplements**" refers to products that are used to complement a resident's dietary needs (e.g., calorie or nutrient dense drinks, total parenteral products, enteral products, and meal replacement products).

"**Qualified dietitian**" – is defined in §483.60 as follows: §483.60(a)(1) A qualified dietitian* or other clinically qualified nutrition professional either full-time, part-time, or on a consultant basis. A qualified dietitian* or other clinically qualified nutrition professional is one who:

- Holds a bachelor's or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics accredited by an appropriate national accreditation organization recognized for this purpose.
- (ii) Has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional.
- (iii) Is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed. In a State that does not provide for licensure or certification, the individual will be deemed to have met this requirement if he or she is recognized as a "registered dietitian" by the Commission on Dietetic Registration or its successor organization, or meets the requirements of paragraphs (a)(1)(i) and (ii) of this section.
- (iv) For dietitians hired or contracted with prior to November 28, 2016, meets these requirements no later than 5 years after November 28, 2016, or as required by state law.

"**Suitable and nourishing alternative meals and snacks**" means that when an alternate meal or snack is provided, it is of similar nutritive value as the meal or snack offered at the normally scheduled time and consistent with the resident plan of care.

"**Therapeutic diet**" refers to a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

"**Tube feeding**" refers to the delivery of nutrients through a feeding tube directly into the stomach, duodenum, or jejunum. It is also referred to as an enteral feeding.

In this Practice Tips, the CDR has chosen to use the term RDN to refer to both registered dietitians (RD) and registered dietitian nutritionists (RDN) and to use the term NDTR to refer to both dietetic technician, registered (DTR) and nutrition and dietetics technician, registered (NDTR).

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