



State of New Jersey
DEPARTMENT OF HEALTH

PO BOX 358
TRENTON, N.J. 08625-0358

www.nj.gov/health

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

MARY E. O'DOWD, M.P.H.
Commissioner

TO: All Licensed Hospitals

FROM: John Calabria, Director *John G. Calabria*
Office of Certificate of Need and Healthcare Facility Licensure

DATE: June 30, 2015

SUBJECT: Registered Dietitians Privileged to Write Dietary Orders

The New Jersey Hospital Licensing Standards at N.J.A.C. 8:43G-10.6(c) state that a physician shall write a specific dietary order for each patient. Additionally, N.J.A.C. 8:43G-10.6(f) states that patient nutritional needs for food and food supplements shall be met in accordance with physician orders.

On May 12, 2014, the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) published its final rule at 42 CFR 482.28(b), Food and dietetic services, which previously required that therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patients. CMS acknowledged that the regulatory language and the Interpretive Guidelines for 42 CFR 482.28(b) were too restrictive and lacked reasonable flexibility to allow hospitals to extend these specific privileges to registered dietitians (RD). To address the noted concerns, 42 CFR 482.28(b)(1) and (2) were revised to 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 patients, or by a qualified dietitian or qualified nutrition professional as authorized by the medical staff and in accordance with State law.

CMS further states that in order for patients to have access to the timely nutritional care that can be provided by RDs, a hospital must have the regulatory flexibility either to appoint RDs to the medical staff and grant them specific dietary ordering privileges, including the capacity to order specific laboratory tests to monitor nutritional interventions and then modify those interventions as needed, or to authorize the ordering privileges without appointment to the medical staff, all accomplished through the hospital's medical staff and its rules, regulations and bylaws. In either instance, CMS states that medical staff oversight of RDs and their ordering privileges would be ensured.

Over the past several months, the Department of Health (Department) has been contacted by numerous hospitals requesting a waiver from N.J.A.C. 8:43G-10.6(c) and (f) to allow RDs the authority to order therapeutic diet orders including the capacity to order specific laboratory tests to monitor nutritional interventions and then modify those interventions as needed. In response to these requests, the Department has carefully considered this issue and agrees that based on the CMS regulatory change it is appropriate and reasonable to allow RDs to write specific dietary orders for each patient and that patient nutritional needs for food and food supplements shall be met in accordance with physician or RD orders.

Therefore, starting immediately as a general waiver, licensed hospitals may allow a physician or an RD to write a specific dietary order for each patient; and patient nutritional needs for food and food supplements shall be met in accordance with physician or RD orders. To implement this general waiver, the hospital may either appoint RDs to the medical staff and grant them specific dietary ordering privileges, including the capacity to order specific laboratory tests to monitor nutritional interventions and then modify those interventions as needed, or authorize the ordering privileges without appointment to the medical staff, all accomplished through the hospital's medical staff and its bylaws.

This general waiver approval for each hospital is contingent upon the following:

1. All other Dietary standards in N.J.A.C. 8:43G-10 shall be followed; and
2. The hospital's policies and procedures regarding Dietary standards shall be revised to reflect the changes noted above.

The Department will amend N.J.A.C. 8:43G-10.6(c) and (f) to reflect the noted changes at its earliest opportunity. If you have any questions, you may contact Susan Brocco of my staff at (609) 292-5960. Thank you.