

## PRACTICE TIPS: Implementation Steps – Ordering Privileges for the RDN

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*\*All registered dietitians are nutritionists, but not all nutritionists are registered dietitians. The Academy's Board of Directors and Commission on Dietetic Registration have determined that those who hold the credential Registered Dietitian (RD) may optionally use "Registered Dietitian Nutritionist" (RDN) instead. The two credentials have identical meanings. In this Practice Tips, the Quality Management Committee has chosen to use the term RDN to refer to both registered dietitians and registered dietitian nutritionists and to use the term NDTR to refer to both dietetic technician, registered and nutrition and dietetics technician, registered.*

### Step 1: Review the May 12, 2014 Federal Register Final Rule effective July 11, 2014<sup>1</sup>.

1. Learn more: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-12/pdf/2014-10687.pdf>
  - a) Final Rule for Regulatory Reforms Impacting Hospital Conditions of Participation (CoPs) Agency: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).
2. Review the companion **Practice Tip: Hospital Regulation - Ordering Privileges for the RDN** that reviews the key elements of the Final Rule for Regulatory Reforms by the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS) which set the standards for any hospital accepting Medicare reimbursement.
  - a) This information is critical to understanding the rationale, parameters for establishing the process for granting RDN privileges for order writing, and the cost implications identified by CMS that gave support to this change in regulations. This change in regulations allows hospitals to grant privileges if they so desire; it is an option, not a requirement.
3. Review the Final Rule's definitions<sup>1</sup>
  - a) Know how "medical staff", "qualified dietitian" and "non-physician practitioners" are defined in the rule (Section §428.12(c); Final Rule page 27115).

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- b) The intent of the rule spells out greater flexibility for hospitals and medical staffs to enlist the services of non-physician practitioners to carry out the patient care duties for which they are trained and licensed.
  - c) This will allow non-physician practitioners to meet the needs of their patients most efficiently and effectively; “Non-physician practitioners” includes the RDN. Refer to the companion **Practice Tip: CMS Hospital Regulation - Ordering Privileges for the RDN** for details.
4. Review the **CMS State Operations Manual (SOM), Appendix A, Survey Protocol, Regulations and Interpretive Guidelines for Hospitals, Rev. 137, 04-01-15.**
- a) This SOM Manual revision of 04-01-15 incorporates the revisions to §428.28(b) and §428.28(c) Food and Dietetic Services and §428.54(c) Orders for Outpatient Services and provides the Interpretative Guidelines for Surveyors.
  - b) The SOM Manual revision of 09-26-14 incorporates the changes to §428.12 (a)(1), §428.22(a) related to privileging, privileging process, and medical staff accountability for non-physician practitioners granted privileges.

For Critical Access Hospitals, **review Appendix W, Survey Protocol, Regulations and Interpretive Guidelines for Critical Access Hospitals (CAHs) and Swing Beds in CAHs, Rev. 138, 04-01-15.**

- a) Revision 138, 04-07-15 incorporates revisions based on the CMS Rule of July 11, 2014 into §485.635(a)(3) including the wording for RDN privileging to write orders.
- b) Revisions were also made to §485.635(c)(1)(iii) which address requirement for food and other services to meet inpatient’s nutritional needs if services are not provided directly by the CAH.

**See CMS State Operations Manuals (SOM) for the various practice areas:**

Use the Guidance Link to open each Medicare State Operations Manual Appendix for the specific practice area (Hospital; Critical Access Hospital; End-Stage Renal Disease Facilities; Long Term Care, etc.: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107Appendicestoc.pdf> --- Click on the corresponding letter in the “Appendix Letter” column to see any available file in PDF.

**Step 2: Review the Academy of Nutrition and Dietetics (Academy) Definitions of Terms<sup>3</sup>.**

- a) The Academy definitions are also available for reference as the final rule does not define all relevant terms applicable to the practice of a Registered Dietitian Nutritionist (RDN).
- b) The following Academy terms should be reviewed:
  - Credentialing (Organizational Setting)
  - Privileging
  - Credentialing (Professional)
  - Clinical Privileges
  - Competence
  - Competency(ies)
  - Therapeutic Diet

Link to Academy Definitions: <http://www.eatrightpro.org/scope>

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**Step 3: Determine hospital role for the RDN(s).**

- a) The rule does not require hospitals to credential and privilege an RDN(s) as a Condition of Participation (CoP), but allows for it as an option if consistent with State law.

**Step 4: Review applicable legal and regulatory requirements in your state.**

1. Learn more: [www.eatrightpro.org/dietorders](http://www.eatrightpro.org/dietorders)
  - a) Identify existing licensure/State Practice Act and associated regulatory impediments, if any.
    - 1) What does your State nutrition and dietetics practice act (licensure/certification/title protection) indicate?
    - 2) Is there a conflict with State law and RDNs independently ordering therapeutic diets (e.g. are therapeutic diets only allowed to be ordered by a physician or a practitioner responsible for the care of the patient)?
    - 3) If language does not prohibit RDNs from independently ordering therapeutic diets, then the hospital RDN(s) may apply to the medical staff for granting of ordering privileges if there are no applicable State laws or regulations governing licensing of hospitals that preclude RDNs from doing so.
  - b) In states without dietetics licensure or no legally defined scope of practice language that prohibits or limits order writing, then the hospital RDN(s) may apply to the medical staff for granting of ordering privileges if there are no applicable State laws or regulations governing licensing of hospitals that preclude RDNs from doing so.
  - c) Identify State Department of Health and state health facility regulations impediments.
    - 1) Some states will need to revise their hospital regulations to align with the federal CoPs.
    - 2) Check the applicable state regulations or code for hospitals.
  - d) If there is any question about how to interpret State law or state health facility regulations relative to RDNs ordering privileges, consult with the organization's legal counsel or department responsible for regulatory or accreditation issues.

**Step 5: Identify best option for granting of ordering privileges in your hospital.**

1. Medical staff oversight of an RDN(s), their ordering privileges and which items will be permitted must be ensured through the hospital's medical staff rules, regulations, and bylaws or other facility-specific process.
  - a) Occurs in one of two ways; a hospital:
    - 1) Has the regulatory flexibility to appoint an RDN(s) to the medical staff and grant the RDN(s) specific nutrition ordering privileges, or
    - 2) Can authorize the ordering privileges without appointment to the medical staff.
2. Each hospital and medical staff must determine:
  - a) How their hospital and medical staff prefer to proceed.
  - b) Whether they intend to allow an RDN(s) to order therapeutic diets independent of the physician (no physician co-signature).
  - c) Their process for granting ordering privileges.
  - d) For which patients/patient populations, if not all patients, or by focus area of practice.

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- e) Which ordering privileges to grant the RDN(s) – which specified scope of care services will be granted.
- 1) Scope of care services for ordering privileges and performing nutrition-related services include these examples, but are not limited to:
    - initiating or modifying diet orders
    - modifying diet texture
    - initiating or changing a calorie level
    - initiating or changing enteral feeding
    - initiating or changing parenteral nutrition
    - inserting nasogastric or nasoenteric feeding tubes
    - initiating physician-driven protocols and order sets
    - initiating therapeutic diets; i.e. sodium, fluid, potassium, gluten free, etc...
    - initiating or changing oral nutritional supplements
    - initiating or changing medical foods, i.e., formulas for inborn errors
    - initiating or changing dietary supplements
    - initiating or changing vitamins, minerals
    - initiating nutrition-related medications, medication management, medication adjustment
    - initiating laboratory tests - nutrition-related or other
    - conducting indirect calorimetry measurements
    - conducting bedside swallow screenings
    - conducting nutrition education
    - conducting nutrition counseling
    - initiating referral to outpatient services
    - initiating referral to other practitioners.
  - f) Ordering privileges that may not be granted to an RDN or only to RDNs with specific qualifications/certifications (e.g., CNSC, CSP for orders in NICU, CSR for patients admitted for transplant) must be specified. This would include any patient types or with specific a diagnosis (es) where the physician must write orders to delegate activities to the RDN.
  - g) Per medical staff directive, when an RDN(s) must defer to and consult with the medical staff responsible for the care of the client/patient.
  - h) Which delegated orders, as written by the medical staff, to allow the RDN(s) and what does this encompass – how is it defined. Medical staff writes the order as:
    - “dietitian consult”
    - “dietitian to write diet orders”
    - “dietitian to consult and write orders for enteral nutrition”
    - “dietitian to modify diet”
    - “dietitian to progress/advance diet”.
3. Identify and review your hospital formulary of therapeutic diet orders. What is meant by a “therapeutic diet” therein?
- a) According to CMS Rule, all patient diets are considered therapeutic in nature, with respect to all modalities that support the nutritional needs of the patient.
  - b) The therapeutic diet includes, but not limited to, are: enteral nutrition, parenteral nutrition, oral nutrition supplements, medical nutrition foods, dietary supplements, vitamins, minerals, and diet texture modifications.

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- c) Confirm corresponding menus are consistent with the Nutrition Care Manual, Pediatric Nutrition Care Manual, Sports Nutrition Care Manual, or other medical staff-approved diet manual.
4. Hospital practices will differ based on state laws or regulations, size and complexity of patient population and services, and medical staff and organization culture.
  5. RDNs who will not be utilizing ordering privileges, must recognize that with the change in the CMS Hospital CoP for Food and Dietetic Services effective July 11, 2014, RDNs without ordering privileges are not allowed to independently order therapeutic diets or nutrition-related services
    - a) The RDN provides recommendations to the medical staff for any changes in therapeutic diet orders, initiating nutrition supplements or vitamin and mineral supplements.
  6. Investigate the hospital facility's credentialing and privileging process. Will the RDN(s):
    - a) Need to apply through the facility's medical staff credentialing process (which means the RDN(s) is granted membership in a medical staff)? OR
    - b) Utilize a human resources department procedure or a credentialing process for allied health practitioners to determine current knowledge, skill, competence, and statutory scope of practice, if applicable of the requesting individual RDN(s)?The processes:
    - 1) Are time-intensive and rigorous to ensure competence to independently perform allowed activities including ordering diets or their services, e.g., oral nutritional supplements, conduct indirect calorimetry measurements; and
    - 2) Reoccur every 1-2 years for re-verification/re-assessment of RDN(s) competence.

**Step 6: Determine RDN(s) who should request ordering privileges.**

**Determine RDN(s) who will require ordering privileges for a larger scope of care services based on the limited number of RDN(s) on the hospital staff.**

1. Decide on the scope of care ordering privileges to present to the medical staff for consideration.
2. Determine ordering privileges interest based on qualifications of the RDN staff.
3. Select the privileges that each RDN would be qualified to perform independently based on hospital RDN staffing numbers, training and demonstrated competence (e.g. writing or modifying diet orders or other nutrition-related actions consistent with patient care responsibilities).
  - a) Privileges may not be the same for all RDNs, particularly if responsibilities are for populations within a focus area of practice requiring specific knowledge and skills such as nutrition support, nephrology nutrition, pediatric nutrition, or diabetes care involving insulin adjustments. For examples of RDN(s) indicators of competency(ies):
    - 1) Locate resources in the Practice Tab, Scope of Practice page on the Academy's website.<sup>4</sup> See below list.
    - 2) Review Academy published articles related to RDN Scope of Practice and Standards of Practice in Nutrition Care and Standards of Professional Performance in the *Journal collection* entitled: Scope and Standards for RDNs and NDTRs.<sup>5</sup>

**Resource:** Academy Definition of Terms: Available at [www.eatrightpro.org/scope](http://www.eatrightpro.org/scope)

**Resource:** Scope and Standards articles: Available at [www.eatrightpro.org/scope](http://www.eatrightpro.org/scope)

- Revised 2017 Scope of Practice for the RDN
- Revised 2017 Standards of Practice in Nutrition Care and Standards of Professional Performance for RDNs
- Revised 2017 Scope of Practice for the NDTR
- Revised 2017 Standards of Practice in Nutrition Care and Standards of Professional Performance for NDTRs
- Scope of Practice Decision Tool: A Self-Assessment Guide
  - The Academy Scope of Practice Decision Tool is a resource available to credentialed practitioners to assist in evaluating whether a desired activity is within his or her individual scope of practice.<sup>6</sup>

**Resource:** Focus Area Standards of Practice/Professional Performance *Journal* Collection Articles Available at [www.eatrightpro.org/sop](http://www.eatrightpro.org/sop)

Standards of Practice (SOP) and/or Standards of Professional Performance (SOPP) for RDNs:

- Adult weight management,
- Clinical nutrition management,
- Diabetes care,
- Disordered eating and eating disorders,
- Education of nutrition and dietetics practitioners,
- Integrative and functional medicine,
- Intellectual and developmental disabilities,
- Management of food and nutrition systems,
- Mental health and addictions,
- Nephrology nutrition,
- Nutrition support,
- Oncology nutrition,
- Post-acute and long-term care nutrition,
- Pediatric nutrition,
- Public health and community nutrition,
- Sports nutrition and dietetics, and
- Sustainable, resilient and healthy food and water systems

**Step 7: Ensure functions and responsibilities are outlined in the RDN(s) and NDTR(s) job descriptions.**

1. With added ordering privileges may come additional responsibilities for the RDN. The RDN(s) job description may need to change. The Scope of Practice for the RDN<sup>7</sup> and the following examples of indicators from the Standards of Practice and Standards of Professional Performance for the RDN<sup>8</sup> that may be adapted for use in job descriptions for hospitals implementing ordering privileges for RDNs:
  - a) Initiates and individualizes the nutrition intervention/plan of care.
    - 1) Utilizes physician/referring practitioner-driven protocols or other facility-specific processes to implement, initiate, or modify order for diet or nutrition-related services (e.g., nutrition supplements, dietary supplements, diet modifications, diet texture

- modifications for dentition or individual preferences, enteral and parenteral nutrition, nutrition-related laboratory tests and medications, and nutrition education and counseling); services are consistent with specialized training where required, competence, approved clinical privileges for order writing and organization policy.
- 2) Utilizes physician/referring practitioner-driven protocols or other facility-specific processes to manage nutrition support therapies (e.g., formula selection, rate adjustments based on energy needs or laboratory results, addition of designated medications and vitamin/mineral supplements to parenteral nutrition solutions or supplemental water for enteral nutrition); services are consistent with specialized training where required, competence, approved clinical privileges for order writing and organization policy.
  - b) Executes programs/services in an organized, collaborative, and customer-centered manner.
    - 1) Participates in or develops process for clinical privileges required for enhanced activities and expanded roles consistent with state practice acts, federal and state regulations, organization policies, and medical staff rules, regulations, and bylaws, if applicable; enhanced activities include but not limited to implementing physician-driven protocols or other facility-specific processes, initiating or modifying orders for therapeutic diets, nutrition supplements, dietary supplements, enteral and parenteral nutrition, nutrition-related laboratory tests and medications, and adjustments to fluid therapies or electrolyte replacements; expanded roles and nutrition-related services include but not limited to initiating and performing bedside swallow screenings, insertion and monitoring of nasogastric or nasoenteric feeding tubes, and indirect calorimetry measurements.
  - c) The nutrition and dietetics technician, registered (NDTR) or other support staff may implement the diet order and provide other components of the nutrition intervention delegated by the RDN or assigned through standard operating procedures, policies and procedures (e.g. nutrition education, admission nutrition screen, nutrition clinic intake interview) consistent with training and demonstrated competence.<sup>9,10</sup>
2. Initiating or modifying orders for diet or other nutrition-related actions, through delegated authority from the physician, is the sole responsibility of the RDN/qualified dietitian or qualified nutrition professional in all settings. The RDN is responsible for the nutrition assessment and for all activities delegated to the NDTR or other support personnel. Refer to the Scope of Practice for the Registered Dietitian<sup>7</sup> and the Scope of Practice for the Dietetic Technician, Registered.<sup>9</sup>
  3. Other department resources need to be reviewed and possibly revised (e.g., policies and procedures, standards of care, competency assessment tools, staffing plans) due to the new ordering privileges program.
    - a) Staffing plans including how coverage assignments are determined may need adjustment to consider that a relief/covering RDN may not have the same ordering privileges as the regular staff RDN.

**Step 8: Determine if the hospital RDN with ordering privileges requires personal liability insurance.**

1. The RDN(s) who has been granted ordering privileges should:
  - a) Collaborate with hospital human resource representative to determine what professional liability insurance the hospital may provide and how the hospital insurance policy protects

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- the RDN(s) who is privileged to independently write orders or perform specific procedures, e.g., insertion of nasogastric and nasoenteric feeding tubes.
- b) Determine the nature of the RDN(s) practice that is performed and whether it is likely to give rise to a claim.
  - c) Realize that claims can be made against a practitioner even if no negligence, mistake, or wrongful act has been committed.
  - d) Know that State legal scope of practice may be referenced when litigation against practitioners and the hospital occur.
  - e) Weigh the benefits versus the risks when making this decision for securing individual professional liability insurance.

**Step 9: Assess impact of future updates in the hospital's accreditation organization's standards and elements of performance.**

1. Anticipate that accreditation organizations will review the CMS Rule and updated SOM Conditions of Participation for Hospitals and Critical Access Hospitals and determine if revisions are needed to the accreditation standards applicable to the medical staff, food and dietetic services, provision and record of services, and human resources.
2. Be sure to check the future revisions in the standards for The Joint Commission, Healthcare Facilities Accreditation Program of the American Osteopathic Association, Det Norske Veritas Healthcare, Commission on Cancer, and the Association of Community Cancer Center.

**Step 10: Advocate for a safe design of Electronic Health Records (EHRs).**

1. Changes to ordering privileges provides an important opportunity to advocate for monitoring the efficacy of an EHR ordering system and assuring that therapeutic diet orders are processed, recorded and created in such a way that the therapeutic diet order can “follow the patient” across all areas of care.
2. In 2013, six in ten non-federal hospitals electronically exchanged health information (such as care summaries) with outside providers/hospitals.<sup>11</sup>
3. Any aspect of a therapeutic diet order in an EHR should be considered as a critical component of treatment which will be exchanged between providers and across care settings.
4. Recommendations to consider once ordering privileges for the RDN(s) are granted and written in the medical staff rules, regulations and bylaws are as follows:
  - a) Develop a Department written policy for RDN Order Privileges
    - Use written Diet Order Policy guidance for discussion with your EHR Implementation Lead and team. This will allow for the system changes to be made based upon understanding of the actual privileges. The policy for RDN ordering diets, meals, snacks, medical foods, nutritional supplements, enteral formulas, parenteral nutrition, NPO, texture modifications, etc. should be identified and approved prior to assembling a team.
  - b) Assemble a Team
    - 1) Consider establishing an informal team to manage the process of EHR system changes. This could include:
      - **Clinical Nutrition Manager** (to communicate policy, manage EHR change requests and monitor progress, issues)
      - **RDN experienced with EHR system design and use** (to advocate for best practices from both a clinical level and to capture optimal system design and reporting)



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- **Food and Nutrition Service Director** (to contribute to any decisions which impact quality food service delivery based upon orders; to participate in risk mitigation and evaluation post order privileges implementation)
  - **Pharmacy Parenteral Orders Lead** (if parenteral orders are included in local privileges policy – to contribute to all aspects of parenteral orders training, implementation, evaluation and risk mitigation)
  - **EHR Vendor Lead** (to provide oversight to optimal systems changes, training and recommendations, based upon experiences of other facilities)
  - **Local Facility IT Systems Administrator/Lead** (to manage role based security for RDNs, participate in training, evaluation and risk mitigation)
  - **Physician Champion** (to liaison with medical staff, participate in process that assures a safe, smooth implementation of the RDN privileges for quality, timely diet order processing; participates in creation and implementation of a Communication Plan)
- c) Develop Project Plan and Timeline
- 1) Any system change and increased or changed role-based access should be managed by a simple project plan and timeline, identifying the tasks necessary prior to full implementation and evaluation with risk mitigation. The timeline should extend for a period after the system change/implementation to include issues management, evaluation of any additional changes or training needed and sign off from the team, including the Physician Champion or medical staff.
- d) Create a Communication Plan for the new EHR ordering privileges
- 1) A simple communication plan for all clinicians impacted by RDN ordering privileges (e.g. ,medical staff, nursing staff, pharmacy staff, billing and medical coders, and nutrition department staff) should be planned and executed well in advance of the actual “go live” day so that smooth processing of orders occurs.
  - 2) A specific process for communication with medical and nursing staff should be established and implemented at go-live to assure that any problems or issues are quickly resolved.
- e) Address Evaluation and Risk Mitigation
- 1) System changes (role based security for RDN Order Writing) and policy changes (written policies for processing a patient order) should be used to evaluate progress and any risks or issues identified by the team before, during and after the implementation.
- f) Address Timing of Orders
- 1) Some EHRs allow for “timed” orders, which become active after a specific time. All RDNs should understand nuances of the system to assure exact order delivery per the expectations of the order writer. In addition, RDNs may receive calls during off hours for the purpose of ordering diets for newly admitted patients. The process of order writing on off hours and weekends needs to be part of the discussion with the medical staff and in the design of the policy and procedures.

#### **Step 11: Monitor future revision publications of the CMS Hospital Conditions of Participation (CoP).**

- Per the final rule, see below chart for Food and Dietetic Services, CoP §482.28(b)(1) and §482.28(b)(2) revisions.
- Locate CoP wording in the CMS State Operations Manual at: [http://cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\\_a\\_hospitals.pdf](http://cms.hhs.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf)

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- Monitor for updates to the CMS State Operations which would contain the Interpretive Guidelines for surveyors for the revised CoP's for the Medical Staff and Food and Dietetic Services.

Regulation (1986) and Interpretive Guidelines effective October 18, 2008	Regulation effective July 11, 2014; Updated Interpretive Guidelines as of 04-01-15
<p>Food and Dietetic Services            §482.28(b)(1) Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patients.</p> <p>Interpretive Guidelines §482.28(b)(1)            Therapeutic diets must be:</p> <ul style="list-style-type: none"> <li>• Prescribed in writing by the practitioner responsible for the patient's care;</li> <li>• Documented in the patient's medical record (including documentation about the patient's tolerance to the therapeutic diet as ordered); and</li> <li>• Evaluated for nutritional adequacy</li> </ul>	<p>Food and Dietetic Services            §482.28(b)(1) Individual patient nutritional needs must be met in accordance with recognized dietary practices.</p> <p>Interpretive Guidelines §482.28(b)(1)  <i>(see SOM for full wording)</i></p> <ul style="list-style-type: none"> <li>• Patients . . . must have their nutritional needs met in a manner that is consistent with recognized dietary practice.</li> <li>• . . . includes all inpatients . . . patients in outpatient status, including the provision of observation services, who stay is sufficiently long that they must be fed.</li> <li>• Identifies DRIs as example of determining the way nutritional needs are met.</li> <li>• Patients must be assessed for their risk of nutritional deficiencies or need for therapeutic diets and/or other nutritional supplementation.</li> <li>• Provides examples of patient who may have specialized dietary needs and may require a more detailed nutrition assessment.</li> </ul>
<p>§482.28(b)(2) - Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the patients.</p> <p>Interpretive Guidelines §482.28(b)(2)            Recognized dietary practices include following current national standards for recommended dietary allowances, i.e., the current Recommended Dietary Allowances (RDA) or the Dietary Reference Intake (DRI) of the Food and Nutrition Board of the National Research Council.</p>	<p>§482.28(b)(2) All patient diets, including therapeutic diets, must be ordered by ordered by a practitioner responsible for the care of the patient, or by a qualified dietitian or qualified nutrition professional as authorized by the medical staff and in accordance with State law governing dietitians and nutrition professionals.</p> <p>Interpretive Guidelines §482.28(b)(2)  <i>(see SOM for full wording)</i></p> <ul style="list-style-type: none"> <li>• Responsibility of hospital to ensure that individuals are qualified under State law before granting them privileges to order diets.</li> <li>• If chooses to not grant ordering privileges to dietitians, the patient's diet must be prescribed by a practitioner responsible for the patient's care. A dietitian may assess patient's nutritional needs and provide recommendations or consultations.</li> </ul>

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1. "Rules and Regulations – Medicare and Medicaid Programs; Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction; Part II – Pages 27105-27157 (FR DOC #

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