



Technical Bulletin



Topic: State Laws Governing Dietitian Ordering of Diets, Hospital Granting Clinical Privileges to Licensed Dietitians & Requirements for a Medical Facility to Take Necessary Actions to Ensure Special Diets Comply with Prescribing Provider's Order or Prescription

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Date: July 1, 2019

To: Nevada Licensed Dietitians & Nevada Licensed Medical Facilities

This technical bulletin is to notify Nevada licensed dietitians and medical facilities licensed by the Division of Public and Behavioral Health (DPBH) of new state laws, effective July 1, 2019, related to the ordering of diets by Nevada licensed dietitians, the granting of clinical privileges to licensed dietitians by hospitals and the requirements for a medical facility to take necessary actions to ensure special diets comply with the prescribing providers order or prescription.

[To review the new state laws please read Senate Bill 95 \(SB 95\) of the 2019 legislative session by clicking here.](#)

This technical bulletin supersedes any previous bulletins issued regarding dietitians and the ordering of diets.

Are dietitians allowed to order diets in Nevada?

Yes, state law governing the practice of dietitians, Nevada Revised Statutes (NRS) 640E.260, as amended by SB 95, now allows dietitians to order diets in Nevada.

If a dietitian works in a medical facility certified by the Centers for Medicare and Medicaid Services (CMS), the facility must meet the dietary services federal regulatory requirements for the specific facility type in which the dietitian works.

Note: In Nevada a registered dietitian (RD) must be a Nevada licensed dietitian to hold these privileges.

Do federal regulations allow dietitians to order diets?

Yes, but it depends on the CMS-certified facility type in which the dietitian works.

Hospitals

Code of Federal Regulations (CFR) §482.28 (b)(2)) allows a qualified dietitian, as authorized by the medical staff and in accordance with state law governing dietitians, to order patient diets, including therapeutic diets.

The hospital's governing body may choose, when permitted under state law and upon recommendation of the medical staff, to grant diet-ordering privileges to qualified dietitians.

Skilled Nursing Facilities

CFR 483.60 (e)(1) requires therapeutic diets be prescribed by the attending physician. CFR §483.60(e)(2) allows the attending physician to 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.

Notes for this section as it relates to skilled nursing facilities:

- If the resident's attending physician delegates this task, the physician 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.
- The terms "attending physician" or "physician" also include a non-physician provider (physician assistant, nurse practitioner, or clinical nurse specialist) involved in the management of the resident's care.

Other facility types (not hospitals or skilled nursing facilities) certified by CMS

Consult the federal regulations governing your facility type prior to implementing any changes noted in this technical bulletin to ensure both state and federal requirements are met. If there is a conflict, the most stringent regulation would apply.

Note for all facility types certified by CMS: Although the federal regulations may discuss registered dietitians and other qualified nutrition professionals, in Nevada only licensed dietitians would be able to hold these privileges.

What does Nevada law allow?

Diets

SB 95 amended NRS 640E.260 to allow a licensed dietitian to order a special diet or nutritional supplement, including, without limitation, medical nutrition therapy, to address the nutritional needs of a patient.

SB 95 also allows a licensed dietitian to use medical nutrition therapy to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient, including, without limitation:

- Interpreting data and making recommendations *or issuing orders* concerning the nutritional needs of the patient through methods such as diet, feeding tube, intravenous solutions or specialized oral feedings; and
- Developing and managing operations to provide food, care and treatment programs that monitor or alter the food and nutrient levels of the patient.

Laboratory tests

Nevada scope of practice laws allow licensed dietitians to order medical laboratory tests relating to the therapeutic treatment concerning the nutritional needs of a patient if there is an established, physician-approved written protocol in place.

Hospital clinical privileges granted to dietitian

SB 95 allows a hospital to grant clinical privileges to a licensed dietitian for the purposes of:

- Ordering special diets for patients;
- Ordering laboratory tests to monitor the effectiveness of special diets or other dietary plans; and
- Modifying special diets or other dietary plans based on the results of laboratory tests.

I am a licensed dietitian, but I do not work in a licensed medical facility. How does this affect me?

In accordance with a licensed dietitian's scope of practice, licensed dietitians can order diets and laboratory tests as outlined in the *What does Nevada law allow?* section of this technical bulletin.

Are medical facilities required to ensure that special diet orders or prescriptions are followed?

Yes, SB 95 also amends NRS Chapter 449 by adding the following requirements:

- A medical facility, as defined in NRS 449.0151, shall take such actions as necessary to ensure that the facility provides a diet for each patient for whom a special diet has been ordered by a licensed dietitian or prescribed by a physician, physician assistant, dentist, advanced practice registered nurse or podiatric physician that complies with the order or prescription. Such actions may include, without limitation, purchasing any food or beverage necessary to comply.
- A medical facility shall maintain documentation which demonstrates that the facility is in compliance with the requirements of subsection 1 and make such documentation available to the Division of Public and Behavioral Health upon request.

Note: Non-medical facilities, such as residential facilities for groups, must continue to comply with state regulations governing dietary services for their specific facility type, including ensuring special diets ordered by a qualified prescribing provider are followed, where applicable.



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