

# To Cosign or Not to Cosign: What Managers Need to Consider

*Editor's note: This is the second article in a two-part series on government regulations as they apply to dietetics. The first, "An Introduction to Government Regulations and the Profession of Dietetics," appeared in the August issue of the Journal (2006;106:1156, 1158-1159).*

Every day, clinical nutrition managers are asked to make decisions related to staff duties and responsibilities. Sometimes the answers, and even the sources of information needed to formulate answers, are not readily apparent. Questions often include: "Do dietetic interns need to have their clinical notes cosigned?", "How should registration eligible employees sign their name?", and "What level of nutrition care can dietetic technicians, registered [DTRs] perform?"

There is usually not one universal answer to these types of questions. That's because each clinical facility is unique due to its geographical location, the nature of its services and corporate culture, the size and expertise of the professional staff, and the availability and level of technical and staff support. In addition to applicable federal regulations, which apply equally across the country to facilities providing Medicare and Medicaid services, the answers may be found in state-specific and local regulations and in workplace-specific policies and procedures including medical staff bylaws.

*This article was written by **Mary Hager, PhD, RD**, senior manager, Regulatory Affairs, Policy Initiatives, and Advocacy, in ADA's Washington, DC office, and **Maureen Otto, MS, RD**, director, Quality Management, at ADA in Chicago, IL.  
doi: 10.1016/j.jada.2006.07.034*

Therefore, the clinical nutrition manager first needs to review and know the federal regulations to the extent to which they may apply, then identify and understand the state occupational and health care facility licensing regulations and his or her facility's policies and procedures. In reviewing these, a broad understanding of more than just the regulations and policies that apply to the food and nutrition services department is gained, which is important because the department does not work in isolation.

If after studying these documents an answer is not obvious, a meeting with those individuals responsible for regulatory compliance within the facility may be necessary. Those persons may be working in the capacity of chief operating officer, compliance officer, or legal counsel. With ready access to the Internet, the answers can often be found online. Clinical nutrition managers can begin their investigation with the applicable federal and state regulations and the facility's procedures and policies. Additional resources for guidance include the facility's accreditation standards, if applicable, and American Dietetic Association (ADA) publications (1-3). If the answer is still not clear after a review of these materials, it may also be appropriate to pose the question to peers or to the ADA.

The purpose of this article is to review information that clinical nutrition managers need to consider when formulating answers to questions and policies for their department.

## THE "QUALIFIED DIETITIAN"

There are several regulatory documents that define the qualifications that a dietitian must possess in order to provide nutrition care to patients, as well as the responsibilities of the qualified dietitian. These documents include federal regulations and state

occupational and health care facility licensing regulations. Workplace policies and procedures are developed to ensure safe and quality patient care and can demonstrate compliance with applicable regulations. In addition, along with job descriptions, they can also outline the facility's definition of a qualified dietitian and his or her associated responsibilities.

Some facilities may choose to pursue voluntary accreditation, in which case any additional standards needed for this accreditation will also be incorporated into the policies and procedures. For example, a hospital may seek voluntary accreditation by the Joint Commission on Accreditation of Healthcare Organizations or the Healthcare Facilities Accreditation Program of the American Osteopathic Association, both of which are the only two accrediting organizations with hospital "deeming authority." This means that hospitals accredited by these two organizations are deemed to have fulfilled Medicare's Hospital Conditions of Participation, regulations that must be met for payment. Accrediting organizations are not regulatory agencies or bodies, and as such cannot impose fines or take other legal actions when a facility is not in compliance with federal and or state regulations.

## FEDERAL REGULATIONS

The Centers for Medicare & Medicaid Services (CMS) has defined "qualified dietitian" for five different types of health care facilities that provide care to beneficiaries: hospitals, long-term care facilities, end-stage renal disease facilities, hospices, and critical access hospitals. These definitions are published in the appendixes of the CMS State Operations Manual and apply to all facilities nationwide that receive CMS payment for beneficiary care through both the Medicare and Medicaid programs (4). These regula-

## FOR YOUR INFORMATION

tions are what the CMS considers to be the minimum requirements for safe and quality patient care. No facility can provide less than the minimum requirements and still receive CMS payment.

The CMS has also published in the State Operations Manual the responsibilities that it expects of the qualified dietitian. For example, in hospitals:

"A qualified dietitian must supervise the nutritional aspects of patient care. Responsibilities of a hospital dietitian may include, but are not limited to:

- approving patient menus and nutritional supplements;
- patient, family, and caretaker dietary counseling;
- performing and documenting nutritional assessments and evaluating patient tolerance to therapeutic diets when appropriate;
- collaborating with other hospital services (eg, medical staff, nursing services, pharmacy service, social work service) to plan and implement patient care as necessary in meeting the nutritional needs of the patients; and
- maintaining pertinent patient data necessary to recommend, prescribe, or modify therapeutic diets as needed to meet the nutritional needs of the patients."

The CMS expects that the qualified dietitian, as defined by federal and state regulations and facility policies, is the individual who actually provides the direct patient nutrition care.

### STATE REGULATIONS

State health care facility licensing regulations are not required to have exactly the same definitions as the CMS, but may consider the federal regulations as the minimum requirements upon which to develop their own regulations. Therefore, states' definitions of qualified dietitians in health care facilities can specify additional qualifications and responsibilities.

While most states have their own health care facility licensing regulations, some states choose to use the CMS regulations exclusively or in part rather than generating their own entire set. In the case of hospital licensing regulations, some states simply adopt CMS' regulations or incor-

porate sections by reference and make them part of a rule as if set out in full. Each state has the ability to restate or specify additional qualifications, such as that the qualified dietitian must be in good standing as a registered dietitian (RD) with the Commission on Dietetic Registration (CDR). In some states, hospital regulations mention only current state licensure, registration\*, or certification as a qualification.

Some states include a definition for the qualified dietitian for other kinds of facilities and programs such as assisted living facilities or home health services if the RD's services are included in the regulations. For example, California's home health licensing regulations define the qualified dietitian as being an RD. Dietitians in every state need to investigate the kinds of facility licensing regulations that already exist and that are being proposed to determine whether RD services are included. These would include regulations for hospice, home health, assisted living and rehabilitation facilities and other health care facilities.

The CMS expects that the qualified dietitian meets the licensing, registration\*, or certification requirements of the state(s) in which he or she practices. Therefore, only those individuals who comply with state occupational regulations may provide patient nutrition care in the context of Medicare and Medicaid services.

### FACILITY POLICIES AND PROCEDURES

Health care facilities are required to have policies and procedures that demonstrate compliance with federal and state regulations. Beyond that, it is the facility's option to seek voluntary accreditation and/or to require additional qualifications of its staff. For example, a facility may require certain kinds of credentials, such as certifications and additional academic degrees, as well as a level of experience and competence beyond what federal and state regulations list as the minimum to perform certain clinical tasks. In some cases,

*\*In state occupational regulations, "registration" is terminology of the state and is not the same as registration with CDR.*

these additional requirements may be driven by private insurers.

Based on the above, a clinical nutrition manager can discern the meaning of qualified dietitian as it applies to his or her own workplace. The definition that is contained in his or her facility's policy should be based on state rules or accreditation standards, whichever are the highest. The definition contained in the facility's policy can also be higher than the highest of these, but not lower.

Clinical nutrition managers also may utilize job descriptions to incorporate additional qualifications and to formalize responsibilities and may propose higher standards of nutrition care. The clinical nutrition manager is the leader in the facility for determining the staffing requirements that are needed to provide safe, quality nutrition care. This means that the clinical nutrition manager can set minimum qualifications that may, when needed, exceed federal and state regulations. Understanding this role as part of the facility's leadership is as critical and important as understanding and complying with mandated minimum requirements.

### THE AMERICAN DIETETIC ASSOCIATION

As a professional association, ADA is committed to providing its members with the resources that support them in delivery of quality nutrition care services (2,3). For example, ADA's Standards of Practice in Nutrition Care and Standards of Professional Performance for RDs and DTRs are important guidance resources (5). These documents provide explanation of the way in which the DTR (technical role) under the supervision of the RD (professional role) works within the nutrition care process (6). ADA is able to assist members with the regulatory process and point them in the right direction with contact information for state resources.

### What Is the Role of Technical Staff?

Generally speaking, support staff (such as the DTR or a nonregistered, nonlicensed individual) can assist the qualified dietitian by conducting screens, gathering data, and performing other tasks that *do not require clinical judgment*. When the responsibilities of the qualified dietitian are

performed by others such as technical and other support staff, there are two concerns: 1) potential noncompliance with federal and state rules, and 2) misplaced accountability for safe and quality patient care.

The expectation is that direct patient care is provided by the qualified dietitian as defined by federal, state and facility rules and policies. Support staff may provide technical assistance to the qualified dietitian within the parameters of appropriate regulations and policies.

### Who Can Chart?

The purpose of the medical record is to communicate patient progress and care interventions. The facility is responsible for ensuring that information is kept confidential, and is legibly entered and maintained. If something is not charted or documented correctly, this can raise concern that the care was never given or that an error in care may have occurred.

It is the professional who provides the care, including qualified consultants, who must document that care in the chart. Clinical nutrition managers need to investigate and strictly follow federal and state regulations, facility policies and procedures, and other requirements related to charting by students and other nonemployees. The facility expects that direct patient care is delivered by the qualified individual or under the supervision of the qualified individual. Facilities should have policies regarding charting by nonemployees such as volunteers, students, and faculty from outside institutions. Nonemployee errors can put a facility in jeopardy and can be viewed as a liability.

Regarding cosigning medical chart entries by dietetic interns, students, or other individuals who may not possess appropriate credentials or be privileged by the facility, it is also important to be aware of the details of the facility's contracts with third-party payers. Contracts may specify the qualifications of the person who must provide the nutrition care. In-

surers may require that the nutrition care is both provided and documented only by the individual with the qualifications specified in the contract. In these cases, cosignature for services provided and documented by an intern or student would not be adequate to receive payment.

### How Should a Registration-Eligible Employee Sign His or Her Name on the Chart?

The term *registration-eligible* applies only to individuals who have received from the Commission on Dietetics Registration a confirmation that they can take the exam. New graduates who have not received this confirmation are not considered registration-eligible. There is no official professional credential for individuals (outside of the DTR) who have not yet taken the dietetics registration exam. Therefore, non-RDs should use a title that accurately reflects their position in the facility and is not misleading. The Commission on Dietetics Registration advises that acronyms such as RDE (used to indicate registered dietitian eligible), which have the appearance of professional credentials and are potentially deceptive and confusing to the public, should not be used.

### How Do I Determine Whether a Practice Is Allowed in My Facility? Or when RDs Must Cosign Clinical Notes? Or How Registration-Eligible Employees Should Sign Their Names at My Facility?

First, every clinical nutrition manager should review and know the facility's policies and procedures, the state's facility licensing and occupational regulations, and the federal regulations for the kind of facility in which he or she works. If uncertain as to how to find or interpret any of this information, a manager should consider a health care facility administrator as a good first contact.

If the issue is related to charting, the clinical nutrition manager should speak with the manager of medical records. If it's related to other tasks,

it is advisable that the dietitian meet with the individual(s) responsible for risk management, quality management, or regulatory compliance, but only after the regulations and policies have been reviewed and understood.

Another resource is the ADA's Scope of Dietetics Practice Framework along with supporting materials on the ADA member-only Web site, under a subnavigation tab called "Practice." The Practice tab is located on the left side of the home page and leads to the Scope of Dietetics Practice Framework and related materials mentioned in this article (3). Additional information can also be found under the "Advocacy and the Profession" tab.

### References

1. Hager M, Otto M. An introduction to government regulations and the profession of dietetics. *J Am Diet Assoc.* 2006;106:1156, 1158-1159.
2. O'Sullivan-Maillet J, Skates J, Pritchett E. Scope of Dietetics Practice Framework. *J Am Diet Assoc.* 2005;105:634-640.
3. Visocan B. Understanding and using the Scope of Dietetics Practice Framework: A stepwise approach. *J Am Diet.* 2006;106:459-463.
4. Centers for Medicare & Medicaid Services. State Survey Agency Directory. Available at: <http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS019027>. Accessed June 19, 2006.
5. Kieselhorst K, Skates J, Pritchett E. American Dietetic Association's Standards of Practice in Nutrition Care and the updated Standards of Professional Performance. *J Am Diet Assoc.* 2005;105:641-645.
6. Lacey K, Pritchett E. Nutrition Care Process and Model: ADA Adopts road map to quality care and outcomes management. *J Am Diet Assoc.* 2003;103:1061-1072.