

**Instructions to the facility requesting the waiver are in italic and red.** This is an example for the facility to use/adapt as desired. It was developed by the Minnesota Academy of Nutrition and Dietetics (MAND) in Sept 2017. Please contact MAND ([mand@eatrightmn.org](mailto:mand@eatrightmn.org)) for more information.

**Use letterhead from the facility requesting the waiver.**

**Address the waiver request to the supervisor of the area that the facility is in (facility will know who this is).**

**Date:**

**Re: Waiver requested to Minnesota's Nursing Home License Chapter 4658 to allow the Physician to delegate diet order writing authority to a licensed registered dietitian.**

We request this waiver to Nursing Home License Chapter 4658 to allow physicians to delegate diet order writing authority to a licensed registered dietitian (RD). We request this waiver in recognition of the expertise and experience in nutrition services and care that a licensed RD is best able to provide for our residents. Dietitians recognize the importance of considering both benefits and risks with dietary restrictions and therapeutic diets. By way of example, less-restrictive diets tailored to each resident's needs, desires, and medical conditions can lead to enhanced quality of life and improved nutritional status. Dietitians are best suited to make these assessments. Dietitians are also more familiar with diet order protocols and format, enteral and parenteral formularies and guidelines, and nutritional supplement options thereby eliminating confusion that can delay proper nutrition care or result in incorrect diet and supplement orders.

Current language in the Nursing Home License Chapter 4658 relevant to this waiver indicates a physician or physician designee is responsible for written orders including special diets. "Physician designee" is defined as nurse practitioner or physician assistant. By way of this waiver licensed registered dietitian would be included as physician designee with regard to written orders for special diets.

**Additional background:**

**The new regulations:** The Centers for Medicare & Medicaid Services (CMS) of the Department of Health and Human Services released the Final Rule for participation in Medicare and Medicaid programs. The long-awaited 'Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities' was published in the Federal Register on October 4, 2016. The new regulations became effective on November 28, 2016. The new regulations reflect advances in practice and service made over the past several years. CMS stated in a response to a public comment that "Effective management and oversight of the food and nutrition service is critical to the safety and well-being of all residents of a nursing facility." The new regulations specify that physicians 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. The Final Rule was published in the Federal Register/Vol. 81, No. 192/Tuesday, October 4, 2016/Rules and Regulations and is available at: <https://www.gpo.gov/fdsys/pkg/FR-2016-10-04/pdf/2016-23503.pdf>.

It is also noted that Minnesota hospital dietitians have been able to order therapeutic diets (along with laboratory tests to monitor the dietary plan) since July 2014 when CMS included physician ability to delegate therapeutic diet orders to dietitians. US Statute 482.22: <http://1.usa.gov/1qk8AJF>

Minnesota's Licensure Statute for Dietitians:

Minnesota Statutes, Chapter 148 Public Health Occupations, Licensing Dietitians and Nutritionists. Minnesota was one of the first states in the country to pass a Licensure bill for Dietitians and Nutritionists. The Licensure Board was established in 1994. A copy of the statute can be accessed under the MN Statutes, Public Health Occupations Ch 148.621 – 148.633 at <https://www.revisor.mn.gov/statutes/?id=148>.

The licensure statute provides scope of practice at a functional level. This enables evolution and advances in practice, agility in responding to new patient needs, meeting organizational objectives, and adopting better ways of care delivery.

Thank you for your consideration of this waiver request to allow the physician to delegate diet order writing authority to a licensed registered dietitian.

*Add signature block for the appropriate facility signatory, typically the Administrator.*