MAKING SENSE OF THE RDN SCOPE OF PRACTICE IN CALIFORNIA

Patricia Booth, MS, RD, FADA
CAND Professional Practice Representative
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OBJECTIVES

Participants will be able to describe:

- The concept of the scope of practice for a profession and for an individual in the profession
- Laws and regulations that impact RDN activities in California
- The CMS ruling (7/2014) allowing hospitals to credential and privilege an RDN to write therapeutic diet orders and the status of the rule in California
Scope of Practice

- The general roles and activities that can be performed by a profession
- General language
- Dynamic and evolving
- Individual scope varies within a profession
Scope of Practice is NOT…

- A list of specific tasks that can be done or cannot be done by a profession or an individual professional

- Not a template for policies and procedures in a facility

- Designed to limit other professions – there is overlap of scope in health care professions

- Intended to imply exclusivity
Scope of Practice for the RDN

- Range of roles, activities and regulations
- Focuses on:
  - Food, nutrition and related services
  - Developed, directed and provided by RDNs
  - Quality products, programs and services including MNT
  - For diseases, conditions, age & population groups, food and nutrition-related settings
**AND RESOURCES FOR INDIVIDUAL SCOPE**

- **Scope of Dietetics Practice Framework**
  - Foundation knowledge for the profession
  - Decision Aids (can I do it?)
    - require knowledge of state laws and regulations
  - Code of Ethics
  - CDR Certifications
  - CE Requirements

- **Practice area Standards of Practice (SOP) and Standards of Professional Performance (SOPP)**
GENERAL RDN SCOPE INFLUENCED BY

- State law
  - CA Business and Professions Code

- State regulations
  - Title 22 – licensed health care facilities
  - Enforced by CA Department of Public Health, Licensing and Certification Division

- Federal regulations
  - Centers for Medicaid and Medicare Services (CMS)
  - CDPH delegated authority to enforce

- Facility Policies and Procedures
RDN Scope in California – State Law

California Business & Professions Code 2585 – 2586.8

Section 2586 (a) – (c) describes the scope of practice for the RDN within a licensed health care facility or private practice setting - relates to MNT
Upon referral or order in a health care facility or private office setting, perform MNT

MNT includes:
- Nutritional and dietary counseling
- Nutritional and dietary assessments
- Develop and recommend nutritional and dietary treatments, incl. therapeutic diets
Perform nutritional assessments and initiate nutrition interventions within diet order pursuant to nutrition screening findings
Individualize patient’s nutritional or dietary treatment by modifying the distribution, type, or quantity of food and nutrients within the parameters of the diet order.

- Must document modification and rationale
- Facility diet manual should define foods included in the diets available
Accept and transmit verbal or electronically transmitted orders pertinent to implementation of MNT in a licensed health care facility

Initiate orders for laboratory tests related to nutrition therapy when authorized by physician

.... According to facility P & P
RD Scope in California
CA B & P Code 2585-2586.8

Challenge:
- CA B & P Code 2585 is a title act – recognition of the RD and DTR titles based upon educational requirements, examination and maintenance of CE
- CA B & P Code 2586 is description of RDN scope related to clinical nutrition practice in a licensed health care facility or private practice setting

BUT
- No state oversight body, no enforcement at state level
STATE REGULATIONS: CA TITLE 22–ACUTE CARE HOSPITALS; SNF

- Therapeutic diets shall be provided as prescribed by a person lawfully authorized to give such an order.

- Registered dietitian full-time or consultant

- Diet manual approved by the dietitian and the medical staff

- Other regulations related to food services for patients/residents (not our topic today)
CMS CONDITIONS OF PARTICIPATION (FEDERAL REGULATIONS)

- All patient diets, including therapeutic diets, must be 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.

- Qualified director, dietitian and personnel
- Menus meet needs of patients; recognized dietary practices are followed
- Patient care is individualized based upon assessment
- Approved diet manual, available to staff
CMS Rule Change (July 2014)

Revised Conditions of Participation for acute care hospitals to:

- allow acute care hospitals to credential and privilege an RDN to write therapeutic diet orders
- Includes ordering diets for patients; lab tests to monitor the effectiveness of dietary/nutrition plans and orders, and diet changes in response to monitoring

……..if consistent with state laws and regulations
CMS Rule Change (July 2014)

...allows RDN to act as an independent practitioner

more responsibility; personal liability
HOSPITAL PRIVILEGES

- Based upon each hospital’s medical staff rules, regulations and bylaws
  - who can be privileged
  - requirements to maintain privileges
  - the specific elements of practice the individual is privileged to perform

- Privilege with or without an appointment to the medical staff

- Approved by the Governing Body
HOSPITAL PRIVILEGES

In general, privileging depends upon:

- Individual’s qualifications to perform task
- Demonstrated competence to perform task
- Periodic review and renewal of privileges

Not the same as a P&P or protocol that allows all staff within a job category (e.g. all RDNs) to perform a task
Hospital Privileges for RDNs – not permitted in California

**RED**: Specific statutory or regulatory impediments exist that preclude RDNs from taking full advantage of the opportunities presented by the revised CMS rule.

www.eatright.org accessed 3/1/16
Why not?

Not consistent with state law & regulations

- **Statutory:** CA B & P Code 2586
  - States that the RDN takes action according to the provider’s order
  - Does not mention independent ordering privileges

- **Regulatory:** CA Title 22, Division 5 (acute care hospitals)
  - Language specifies “physician’s orders” as the basis for diet/food served to the patient
WHO SAYS?

- California Dept. of Public Health (CDPH) Licensing and Certification Division (licensing of health care facilities)
  - Must have a state-level oversight board (e.g. licensing board) for privileging
    - Rationale: public record of individuals in the profession, board has authority to take action on complaints about individual practitioners
  - Not specifically permitted in current CA law and regulations
Clarifications

- Diet order = the diet ordered by the authorized provider (e.g. regular diet, cardiac diet, etc)
- Foods served for a particular diet order are described in an approved facility-specific diet manual
- Oral nutritional supplements are medical foods
- The word “order” is used for “provider orders” and for other kinds of communication in health care facilities
THE BOTTOM LINE

CMS rules do not override state law & regs
- CDPH L & C conducts licensing surveys for hospitals and enforces their understanding of the regulations.
- If a facility in CA implements diet order writing privileges for dietitians, the hospital can be cited.
- Changing laws and regulations in California is a political process: difficult and time-consuming.
RECOMMENDATIONS

- Utilize your skills!
- Welcome collaboration and support from other health care professionals to provide nutrition care
- Develop methods to efficiently communicate RDN recommendations to providers for timely implementation
- Evaluate systems for improvements in workflows within existing laws and regulations
- Take care when using the word “order”