

January 31, 2017

Amanda Thomas
Health Policy Analyst for Regulatory Affairs
State of Maryland
Department of Health and Mental Hygiene
Office of Health Care Quality
Spring Grove Center
Bland Bryant Building
55 Wade Avenue
Catonsville, MD 21228

Dear Ms. Thomas,

Re: Additional Proposed Changes to Maryland COMAR 10.07.02 Comprehensive Care Facilities and Extended Care Facilities (version 4: dated - 3/02/16) – based upon updates in the federal long term care regulations implemented November 28, 2016

Maryland Dietetics in Health Care Communities (MD DHCC), a state practice representing licensed registered dietitians working in long term care, assisted living facilities and correctional institutions, has reviewed the 3/02/16 proposed changes to the Maryland **Comprehensive Care Facilities and Extended Care Facilities** Regulations in conjunction with the Centers for Medicare and Medicaid Services Updated Regulations 42 CFR 483.30 - “Physician Services” released on 9/28/16. This federal update allows the delegation of dietary order writing to licensed, registered dietitians. It is MD DHCC’s goal to achieve consistency between Maryland and Federal regulations to promote the well-being and health of Maryland long term care residents, and to reduce confusion between these two sets of regulations.

We are very appreciative to have this additional opportunity to provide you with proposed changes on behalf of our membership. We have also encouraged our licensed registered dietitian members individually to also voice their thoughts, opinions and proposals for these regulations to you and your office.

[.10]/ 15 Physician Services. G. Appropriate Care of Residents: - Page 31 of 136 pages (3/02/16 version 4 of Proposed LTC regs)

Recommendation – add “*new section*” after section (9) “Properly refer residents to specialty services and providers when the care needs of the resident exceed the scope of the attending physician’s knowledge and skill” to read as:

- (10) *A resident’s attending physician may delegate the task of writing dietary orders, consistent with 10.07.02.13 (22) Dietary Services to a licensed registered dietitian in compliance with federal and state laws and regulations, and under the supervision of a Maryland licensed physician”.*

Rationale – CMS released a series of federal CMS long term care regulation updates designed to “improve care, safety and consumer protections for the long-term care facility residents” on September 29, 2016 with an effective date of November 28, 2016. One of these updates “42 CFR 483.30-Physician Services” now allows Maryland licensed physicians to delegate writing dietary orders to Maryland licensed registered dietitians. Our recommended regulation wording will align proposed Maryland LTC regulations with Federal CMS regulations to support improved well-being and care of Maryland Long Term Care residents, and to reduce confusions between two different sets of regulations. Placement of these proposed regulations changes in this section is based upon the fact that CMS has also put these new regulations under “physician services” category in the Federal Regulations as 42CFR 483.30 (e) Physician delegation of tasks in SNFs.

[.13]/ 22 Dietetic Services: - Page 44 of 136 pages (3/02/16 version 4 of Proposed LTC regs)

Recommendation – add “*new section*” after section “L. Resident Directed Meal Pattern” to read as:

- *M. Diet Order Writing.*

(1) *A resident’s attending physician may delegate the task of writing dietary orders to a licensed registered dietitian in compliance with federal and state laws and regulations, and under the supervision of a Maryland licensed physician” – as described in 10.07.10.G.10 Physician services.*

Rationale – CMS released a series of federal CMS long term care regulation updates designed to “improve care, safety and consumer protections for the long-term care facility residents” on September 29, 2016 with an effective date of November 28, 2016. One of these updates “42 CFR 483.30-Physician Services” now allows Maryland licensed physicians to delegate writing dietary orders to Maryland licensed registered dietitians. Our recommended regulation wording will align proposed Maryland LTC regulations with Federal CMS regulations to support improved well-being and care of Maryland Long Term Care residents, and to reduce confusions between two different sets of regulations. Placement of this revised language a second time in the dietetic services section is necessary as this is where administrators, food service directors, nursing, etc. look to see what is required of dietary services.

In closure, we remain very grateful for the opportunity to submit testimony to assist in the well-being and care of Maryland residents in LTC as well as achieve unity (not confusion) between two sets of regulations.

Please contact us if we can provide any further information.

Sincerely,

Phyllis Fatzinger McShane, MS RD LDN
Past Chair, MD DHCC

Joyce Geer, RD LDN
Chair, MD DHCC

Cc: MD DHCC Executive Board