State Regulations Pertaining to Dietary Services

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ALABAMA

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420-5-10-.12 Dietary Services.

(1) The facility must provide each resident with a nourishing, palatable, well balanced diet that meets the daily nutritional and special dietary needs of each resident.

(a) Staffing. The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

1. If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

2. "Qualified Dietitian" - Is one who is currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes as governed by the Alabama Board of Examiners for Dietetic/Nutrition Practice.

(2) Sufficient staff. The facility must employ sufficient support personnel competent to carry out the functions of the dietary service.

(3) Menus and nutritional adequacy. Menus must:

(a) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(b) Be prepared in advance; and

(c) Be followed.

(4) Food. Each resident receives and the facility provides:

(a) Food prepared by methods that conserve nutritive value, flavor and appearance;

(b) Food that is palatable, attractive, and at the proper temperature;

(c) Food prepared in a form designed to meet individual needs; and
(d) Substitutes offered of similar nutritive value to residents who refuse food served.

(5) Therapeutic diets. Therapeutic diets must be prescribed by the attending physician.

(6) Frequency of meals.

(a) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.

(b) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (d) below.

(c) The facility must offer snacks at bedtime daily.

(d) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal, and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.

(7) Assistive devices. The facility must provide special eating equipment and utensils for residents who need them.

(8) Sanitary conditions. The facility must:

(a) Procure food from sources approved or considered satisfactory by Federal, State or local authorities;

(b) Store, prepare, distribute, and serve food under sanitary conditions; and

(c) Dispose of garbage and refuse properly.

(9) Feeding Assistant Program Requirements.

(a) Facility staff who are not health care personnel, (the facility administrator, activity staff, clerical staff, laundry and housekeeping staff or other), can be used as feeding assistants upon successful completion of an approved training program.

1. Volunteers and family members may assist residents with feeding and drinking, without completing an approved training program. A feeding assistant shall only assist residents to eat or drink who have no complicated feeding problems and who have no known behaviors at meal time. If a resident is determined, by the facility, to meet the criteria of having a feeding assistant, then the facility must specify that the resident will be assisted by a feeding assistant on the care plan.

(b) Examples of complicated feeding problems include: difficulty swallowing, recurrent lung aspirations and tube or parenteral/IV feedings. Residents with a clinical condition, such as the conditions listed above, require the employee providing feeding or hydration services to be a licensed health care professional or certified nurse aide.
(c) The facility must base resident selection on the charge nurse’s assessment and the resident’s latest assessment and plan of care. A feeding assistant must work under the direct supervision of a registered nurse or licensed practical nurse in a dining room or other common area.

(d) The feeding assistant is not permitted to perform other nursing or nursing-related duties (for example, measuring or recording output, transferring and toileting). In an emergency, a feeding assistant must immediately call a supervisory nurse on the resident call system, or other appropriate means of emergency notification.

(e) Feeding Assistant Definition. Paid feeding assistant means a person who does not meet the definition of health care personnel and who is paid by a nursing home, to assist residents who have no feeding complications with the activities of eating and drinking. The feeding assistant is not permitted to provide any other nursing or nursing related service. Paid feeding assistants must be at least sixteen years old. A feeding assistant must work under the direct supervision of a registered nurse or licensed practical nurse in a dining room or other common area.

1. Nurse aides who are on the nurse aide abuse register and who have been disqualified from working as a nurse aide may not work as a feeding assistant. A feeding assistant does not include a person who is a:

   (i) Licensed health professional or registered dietitian;

   (ii) Volunteers without money compensation; or families

   (iii) Certified nurse aide.

(f) Feeding Assistant Training Requirements.

(1) Feeding assistant training programs must require enrolled individuals to successfully complete an approved training program, which includes the following federally-mandated topics, covered during nine (9) hours of classroom instruction and hands on training.

   (i) Feeding techniques

   (ii) Assistance with feeding and hydration

   (iii) Communication and interpersonal skills

   (iv) Appropriate responses to resident behavior

   (v) Safety and emergency procedures, including the Heimlich maneuver

   (vi) Infection control

   (vii) Resident rights

   (viii) Recognizing changes in residents that are inconsistent with their normal behaviors and the importance of reporting these changes to the supervisory nurse
(ix) Abuse, neglect and misappropriation of resident property including reporting requirements

(x) Dementia

2. Training must include an experienced staff member demonstrating the correct way to feed a resident who requires minimal assistance with feeding including appropriate cueing, moderate assistance with feeding and a resident who requires total assistance with feeding.

3. The feeding assistant training program must also provide instruction on the following topics:

(i) The resident population who will be served by the feeding assistant in a facility-based program. The facility-based training program curriculum must include training specific to the identified population type(s). This training must include, but is not limited to:

I. Characteristics of the population, such as the population member’s physical, social and mental health needs, and specific medications or treatment needed by the residents,

II. Meeting the needs of persons with a dual diagnosis (co-occurrences of mental health disorders and alcohol and/or drug dependence or abuse), and maintaining or increasing his or her social participation

4. Feeding assistants who have been trained by another facility's training program, must be trained for the specific needs of a facility’s population

5. Programs may choose to add increased training requirements.

6. Training programs must stress the only direct, hands-on duty a feeding assistant is permitted to perform is assisting residents to eat or drink who have no complicated feeding problems and who has no known behaviors at meal time.

7. Feeding assistant training programs must use a training curriculum, which has been pre-approved by the Department and determined to comply with the federal requirements. Entities are allowed to choose one of the following pre-approved, standardized curriculum models: Assisting with Nutrition and Hydration in Long-Term Care. Hartman Publishing Inc. 2004. Assisted Dining: The Role and Skills of Feeding Assistants. Walker, Bonnie L and Cole, Claire S. American Health Care Association. 2004.

8. In addition to the pre-approved, standardized curriculum models facilities must also utilize the following Dementia Education Training Act Care Series videotapes:

Tape 1 - Understanding Dementia

Tape 2 - Staff Communication

Tape 4 - Feeding Techniques and Nutrition

Tape 5 - Assuring Proper Hydration

Tape 11 - Recognizing Changes in Health Status
9. Although the pre-approved standardized training curriculums include additional skill information (e.g., output, special care needs for resident with dysphagia, etc.), the instructor must stress the feeding assistant will not be permitted to perform any other hands-on duty, beyond assisting residents to eat and drink who have no complicated feeding problems and who have no known behaviors at meals.

10. An individual may not provide hands-on assistance with feeding or hydrating residents unless the individual has successfully competed the following:

(i) A State-approved training program for feeding assistants, including additional instruction on any selected resident population.

(ii) After completing the training course, the individual must pass a State-approved standardized written quiz with a minimum score of 80%. The individual may request the quiz to be administered orally. Instructors should consider the needs of persons who have limited English proficiency or reading difficulties

(iii) Successfully completing demonstration of 1) feeding residents with minimal assistance/moderate assistance with cueing and total feeding of resident; 2) Heimlich maneuver; and 3) Appropriate hand washing techniques

11. Programs may choose to add increased testing requirements.

12. Students who do not successfully pass the initial competency evaluation will be allowed the opportunity to review the training materials and retake the test a maximum of two additional times. Therefore, the student may only take the test a total of three times. The program must document the failure, opportunity for review and subsequent retake testing date.

g. Feeding Assistant Instructor Requirements. Only the following licensed health care professionals can serve as lead instructors: RN, LPN, RD, ST, OT. These individuals must have experience in LTC with six months experience in the management of persons with dementia. Experienced CNAs and other individuals may assist with the training and feeding demonstrations, if appropriately supervised.

(h) Records. Feeding assistants must receive an annual in service on relevant feeding assistant topics (any topic area included in the curriculum is appropriate). In addition, feeding assistants must be evaluated on a yearly basis to document that skill performance and feeding competence is satisfactory.

1. Feeding assistant training programs must maintain the following records:

(i) For a minimum of three (3) years, all students’ written examinations, (skills checklists) and other relevant training records

(ii) Documentation of the training conducted and identification of the instructor conducting the training.
(iii) Record of all individuals who have successfully completed the feeding assistant training and competency testing program.

2. Training programs must maintain the security of the test materials to ensure disclosure or forgery does not occur.

3. Facilities employing feeding assistants must maintain the following records:

(i) Feeding assistants must have in their personnel file evidence of the following:

I. Evidence of having successfully completed an approved feeding assistant training and competency testing program

II. Evidence of annual in service session(s), relating to feeding assistant duties

III. Evidence of an annual evaluation, determining a feeding assistant's continued competence in feeding residents.

(ii) Feeding assistant roster, recording all individuals employed by the facility as feeding assistants who successfully completed the feeding assistant training and competency evaluation.

(iii) The selected resident's medical record, documenting no complicated feeding condition exists.

(i) Approval Process of Feeding Assistant Training Programs. A facility must submit to the Division of Health Care Facilities (DHCF) in writing the curriculum the facility will utilize in their feeding assistant training program.

(10) Nutrition. Based on a resident's comprehensive assessment, the facility must ensure that a resident:

(a) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(b) Receives a therapeutic diet when there is a nutritional problem.

(11) Hydration. The facility must provide each resident with sufficient fluid intake to maintain proper hydration and health.

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7 AAC 12.720. Dietetic service

(a) A facility that provides dietetic services, with the exception of frontier extended stay clinics, must comply with the provisions of this section.

(b) Except as provided in (p) and (q) of this section, a facility must employ

(1) a full-time dietitian who is registered by the American Dietetic Association; or

(2) a full-time dietetic service supervisor to supervise the dietetic service and a registered dietitian on a consulting basis.

(c) A registered dietitian must be available not less than once every three months to provide advice to the administrator and medical staff, and guidance to the supervisor and staff of the dietetic service, and shall participate in the development or revision of dietetic policies and procedures.

(d) The dietetic service must provide food of the quality and quantity to meet the patient’s needs in accordance with physician’s orders and, to the extent medically possible, to meet the National Research Council’s Recommended Dietary Allowances, 10th edition (1989), adopted by reference. If food is provided by an outside food service establishment, the facility shall ensure that the requirements of this subsection are met.

(e) A facility that provides dietetic services must comply with 18 AAC 31. The facility shall retain written reports of the inspections performed under 18 AAC 31.900 on file, with notation of corrective actions in response to citations, if any.

(f) A facility must maintain adequate space, equipment, and staple food supplies to provide food service to patients in emergencies.

(g) If a facility provides dietetic services, it must maintain a current profile card for each patient indicating prescribed diet, likes and dislikes, and other pertinent information concerning the patient’s dietary needs.

(h) The facility must maintain lavatories for hand washing, with hot and cold running water, soap, and disposable towels, conveniently located in the service area used by persons who handle food.

(i) A current manual for therapeutic diets, approved by the dietitian, must be available in the dietetic service area.

(j) A copy of the menus, with menu substitutions, must be retained for at least 60 days.
(k) Records of food purchased, showing dates of purchases, quantity, and itemized cost, must be retained on file for at least one year.

(l) Standardized recipes must be maintained and used exclusively in food preparation.

(m) Current work schedules by job titles and weekly duty schedules for dietetic service personnel must be posted in the dietetic service area and retained for at least three months.

(n) Routine cleaning schedules must be posted and records of cleaning must be maintained on file for at least three months.

(o) In this section, a "dietetic service supervisor" means a person who

1. is a graduate of a dietetic technician or dietetic manager training program, corresponding or classroom, approved by the American Dietetic Association;

2. is a graduate of a course approved by the department that provided 90 or more hours of classroom instruction in food service supervision, and who has a minimum of two years of experience as a supervisor in a health care institution with consultation from a dietitian;

3. has training and experience in food service supervision and management in a military service equivalent in content to the programs in (1) or (2) of this subsection;

4. has completed all nutrition and related coursework necessary to take the registration examination required to become a registered dietitian by the American Dietetic Association;

5. is certified by the Certifying Board for Dietary Managers of the Dietary Managers Association;

6. has completed a dietary manager course curriculum approved by the American Dietary Manager Association, is registered by the American Dietetic Association, and is qualified to take the examination required to become certified by the certifying board for dietary managers of the Dietary Managers Association; or

7. has at least three years of experience in institutional dietary management, 200 or more documented contact hours with a dietitian registered by the American Dietetic Association, and 30 or more continuing education credits that

(A) have been approved by the American Dietetic Association or Dietary Managers Association; and

(B) directly relate to food service management and clinical nutrition.

(p) A rural primary care hospital or a critical access hospital must have a dietitian registered by the American Dietetic Association or a dietetic service supervisor to supervise and monitor the dietary services to ensure the facility meets patients’ nutritional needs and the requirements of this section. The services of a registered dietitian or a dietetic services supervisor may be provided on a part-time, offsite basis.

(q) A nursing home that is licensed separately under this chapter, but that is part of a licensed critical access hospital under 7 AAC 12.104, must employ a qualified dietitian
either full time, part time, or on a consultant basis to plan, manage, and implement dietary service activities to assure that the residents receive adequate nutrition and that the dietary department of the nursing home is functioning properly. If a qualified dietitian is not employed full time, the facility is subject to the following requirements:

(1) the facility must designate a person to serve as the

(A) dietetic service supervisor; or

(B) manager of food service; a manager of food service is exempt from the requirements of (o) of this section;

(2) the facility shall ensure that the dietitian

(A) makes frequently scheduled onsite consultation visits to the facility;

(B) functions collaboratively with the dietetic service supervisor or manager of food service in meeting the nutritional needs of the residents;

(C) provides supervision for dietary department functions;

(D) develops and implements continuing education programs for dietary services and nursing personnel; and

(E) participates in interdisciplinary care planning.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 12/17/2005, Register 176; am 12/3/2006, Register 180 Authority: AS 47.32.010 AS 47.32.030 Editor's note: A copy of Recommended Dietary Allowances, adopted by reference in 7 AAC12.720(d), may be obtained from the National Academies Press at 500 Fifth Street N.W., Lockbox 285, Washington, D.C., 20055; telephone: (888) 624-8373. Information on currently registered dietitians; coursework, qualified training programs, and examination requirements to become a registered dietitian; or approved continuing education courses may be obtained from the American Dietetic Association, 120 South Riverside Plaza, Suite 2000, Chicago, IL 60606-6995; telephone: (800) 877-1600. Information on currently certified dietary managers, approved course curriculum, or continuing education courses for certified dietary managers may be obtained from the Dietary Managers Association, 406 Surrey Woods Drive, St. Charles, IL 60174; telephone: (800) 323-1908.
A. An administrator shall ensure that:

1. Food services are provided in compliance with 9 A.A.C. 8, Article 1;

2. A copy of the nursing care institution's food establishment license required in subsection (A)(1) is provided to the Department for review upon the Department's request;

3. If a nursing care institution contracts with a food establishment as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the nursing care institution, a copy of the contracted food establishment's license is:
   a. Maintained on the nursing care institution's premises, and
   b. Provided to the Department for review upon the Department's request;

4. A registered dietitian is employed full-time, part-time, or as a consultant; and

5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the residents.

B. A registered dietitian or director of food services shall ensure that:

1. Food is prepared:
   a. Using methods that conserve nutritional value, flavor, and appearance; and
   b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;

2. A food menu is prepared at least one week in advance, conspicuously posted, and adhered to unless an uncontrollable situation requires food substitution such as food spoilage or no delivery of specific food ordered;

3. Meals for each day:
   a. Meet the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, "Recommended Dietary Allowances," 10th Edition, 1989, incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available from the National Academy Press, 2101 Constitution Avenue, N.W., P. O. Box 285, Washington, D.C. 20055; and

4. A resident is provided:
a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and care plan;

b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);

c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and

d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:

i. A resident group agrees; and

ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;

5. A resident is provided with food substitutions of similar nutritional value if:

a. The resident refuses to eat the food served; or

b. The resident requests a substitution;

6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;

7. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and

8. A resident eats meals in a dining area unless the resident chooses to eat in the resident's room or is confined to the resident's room for medical reasons documented in the medical records.

Historical Note
Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1).
519 SUPERVISION OF PATIENT NUTRITION Nursing personnel shall be aware of the nutritional needs, food, and fluid intake of patients and assist promptly where necessary in the feeding of patients.

560 Dietetic Services

561 Staffing

Staff supervisory responsibility for the dietetic services is assigned to a full time, qualified dietetic service supervisor or Certified Dietary Manager. A qualified supervisor is one who has:

a) Completed an approved food services supervisor's course; or,

b) Been certified by the Certifying Board of Dietary Managers; or,

c) For only those facilities having more than fifty (50) beds, is enrolled in a food services supervisor course approved by the Office of Long Term Care. For purposes of these regulations, the term a food services supervisor course approved by the Office of Long Term Care means a course of education and training in food services or food services supervision provided by an licensed and accredited educational institution.

Certified Dietary managers and food services supervisors shall complete fifteen (15) hours per year of continuing education courses approved by the Office of Long Term Care. For purposes of these regulations, the term continuing education courses approved by the Office of Long Term Care means continuing education courses offered by the Dietary Managers Association or comparable body, and approved by the Office of Long Term Care.

562 Hygiene of Staff

All food service employees shall wear appropriate, light-colored clothing including hairnet and shall keep themselves and their clothing clean.

All persons working as food handlers in nursing homes shall have in their possession or on file in the home in which they are employed, a current, approved health card.

Persons having symptoms of communicable or infectious diseases or lesions shall not be allowed to work in the dietetic services. Food service employees shall not be assigned duties outside dietetic services.

563 Minimum Daily Food Requirements

All patients shall be served an approved, appetizing, adequate diet that conforms to the recommended dietary allowances of the Food and Nutrition Board, National Research
Council or with, “Food for Fitness- a Daily Guide” leaflet #424, United States Department of Agriculture.

Facilities are permitted to serve commodity foods provided that the facility is registered as a non-profit organization and the foods were legally obtained directly from USDA sources. Commodity foods obtained from an individual may not be used. Commodity foods shall be utilized pursuant to USDA regulations. Facilities utilizing commodity foods shall maintain documentation, or be able to provide evidence, that the foods were obtained through proper channels. Failure to meet this requirement may result in a deficiency finding and a report to federal authorities.

The daily food allowances for each patient shall include, unless contraindicated by the patient’s physician:

563.1 Milk- two (2) or more eight (8) ounce portions

1. Milk and milk products shall be obtained from a source approved by the Arkansas Department of Health. They must be produced and handled in accordance with regulations set fourth by the Arkansas Department of Health.

2. Milk shall be served in the original individual containers or from a dispenser approved by the Arkansas Department of Health.

3. Cartoned milk or milk products shall be stored so that the tops are not covered with ice or water.

4. Milk and cream shall be kept in tightly covered containers and refrigerated until served or used.

563.2 Meat- five (5) ounces of protein, i.e., lean meat, fish, poultry, eggs, or cheese.

1. Count as a serving: two (2) to three (3) ounces of lean cooked meat, poultry, or fish all without bones; two (2) ounces of cheese; one (1) cup cooked dried beans or peas; four (4) tablespoons of peanut butter.

2. Dried beans, dried peas, or peanut butter may be served once a week in place of lean meat if one-half (1/2) pint of milk is served at the same meal. If milk is refused by the resident, one (1) ounce of meat or meat substitute such as cheese or eggs shall be served in its place.

3. Meat shall be obtained from an approved source.

4. No raw eggs shall be served.

563.3 Fruits and Vegetables- four (4) or more servings

1. Count as a serving: one-half (1/2) cup or portion as ordinarily served, such as one medium apple, banana, pear or potato.

2. Include a citrus fruit or other fruit or vegetable rich in Vitamin C every day and a dark green or deep yellow vegetable for Vitamin A at least every other day.
3. No hermetically sealed low acid or non-acid food which has been processed in a place other than a commercial food processing establishment shall be used.

563.4 Breads and Cereal- four (4) or more servicing, whole grain, enriched or restored.
563.5 Other foods to round out meals and snacks and to satisfy individual appetites and provide additional calories.

564 Frequency of Meals

564.1 At least three (3) meals are served daily

564.2 There shall be at least a five (5) hour span between breakfast and the noon meal and between noon meal and supper. The meals shall be served at approximately the same hours each day.

564.3 There shall not be more than fourteen (14) hours between a substantial supper and breakfast. Supper shall include as a minimum: two (2) ounces of a substantial protein food, a starch (or substitute) or soup, vegetable or fruit, dessert and beverage, preferably milk.

564.4 Bedtime snacks of nourishing quality shall be routinely offered to all patients whose diets do not prohibit the services of this night feeding. Milk, juices, cookies, or crackers shall be offered.

565 Meal Service

565.1 All foods shall be served at the proper temperatures and procedures established and implemented to serve the patient cold foods between forty-five to fifty-five (45-55) degrees Fahrenheit, and hot foods should register one-hundred forty (140) degrees Fahrenheit on the steam table and should reach the patient at no less than one-hundred fifteen (115) degrees Fahrenheit.

565.2 Table service shall be provided for all who can and will eat at the table, including wheelchair patients.

565.3 An over-bed table shall be provided for bed patients. Patients who are served meals in their rooms shall be provided with an over-bed table or an over-patient table of sturdy construction.

565.4 The public, personnel, or patients shall not be permitted to eat or drink in the kitchen, dishwashing area, or store room.

565.5 Only dietetic services and administrative personnel shall be allowed in the kitchen.

565.6 Only dietetic services personnel shall be allowed to portion out food for patients or personnel.
565.7 Trays shall not be set up until the meal is ready to be served. Food shall not be at the patient’s place in the dining room until the patient is at the table.

565.8 Nursing home residents will not be permitted to work in the dietetic services. If a patient is to be allowed to scrape trays, there must be a physician’s order.

565.9 All food transported to patient rooms or to dining rooms which are not adjacent to the kitchen must be covered. If hot and cold carts are not used to deliver trays, carts must be completely cleaned before the next use.

566 Menus

566.1 Menus shall be planned and written two (2) weeks in advance and posted at least one (1) week in advance. Menus for each level shall be written. Arrows, etc., are not acceptable.

566.2 Weekly menus shall not be repeated more often than a three (3) week cycle. Identical meals shall not be repeated more often than once every three (3) weeks.

566.3 Changes shall be recorded on both the regular and therapeutic diet menus.

566.4 Menus which have been posted in the kitchen shall not be redated and reused. 566.5 Meals served shall correspond essentially with the posted menus and shall be served in sequential order as planned and approved by the dietetic services consultant.

566.6 Records of menus as served shall be on file and maintained for thirty (30) days.

566.7 When substitutions are made they should be of the same food groups and of equal nutritional value.

567 Therapeutic Diets

567.1 There shall be a system of written communications between dietetic services and nursing services, i.e., diet order forms. Nursing services should send a written patient diet list monthly and diet change slips as diets are changed by the physician.

567.2 Therapeutic diets shall be served only to those patients for whom there is a physician's or dentist's written order.

567.3 Diet orders shall be reviewed by the physician every one hundred and twenty (120) days for intermediate and minimum care patients and very sixty (60) days for skilled care patients.

567.4 A current manual approved by an affiliate of the American Dietetic Association such as the Arkansas Diet Manual, shall be used, and a copy of the approved manual shall be available at one nurses’ station and in the dietetic services.
567.5 In the event that the calorie controlled menu patterns in use in the facility are other than those in the approved manual, the calculations and the patterns shall be in the policy and procedure manual on file in the dietary services and posted in the kitchen.

567.6 A copy of diets as ordered by the physicians shall be posted in the kitchen and shall correspond to the diet as ordered on the medical chart and shall be kept current. Patient diet lists shall include the patient’s name, room number, and diet and shall be signed by licensed personnel.

567.7 Therapeutic diets that vary in the time specified for regular meals shall be provided for the patients as ordered by the physician.

567.8 There shall be a system of patient identification for each tray served which includes the following information:

1. Resident's Name.
2. Resident's Diet.
3. Resident's Room Number.
4. Resident’s Beverage Preference.
5. Any allergies the resident may have to certain foods.
6. Any major dislikes, for which there should be a substitution provided.

567.9 The hour of sleep feedings for the calorie controlled diets shall be recorded in nurses’ notes as served and should include patient acceptance.

568 Preparation and Storage of Food

568.1 An adequately-sized storage room shall be provided with adequate shelving. Seamless containers with tight-fitting lids, clearly labeled, shall be provided for bulk storage of dry foods. (It is recommended that these containers be placed on dollies for easy moving.) The storage room shall be of such construction as to prevent the invasion of rodents and insects, the seepage of dust or water leakage or any other contamination. The room shall be clean, orderly, well ventilated and without condensation of moisture on the walls. Food in any form shall not be stored on the floor. If the bottom shelf is open it shall be of sufficient height to clean underneath.

568.2 All food prepared in the nursing home shall be clean, wholesome, free from spoilage and so prepared as to be safe for human consumption. All food stored in the refrigerators shall be stored in covered containers. Leftover foods shall be labeled and dated with the date of preparation. Foods stored in freezers shall be wrapped in air tight packages, labeled and dated.
568.3 Fresh fruits and vegetables shall be thoroughly washed in clean, safe water before use. Vegetables subject to dehydration during storage shall be wrapped or bagged in plastic.

568.4 All readily perishable foods, including eggs or fluids, shall be stored at or below forty-five (45) degrees Fahrenheit. A reliable and visible thermometer shall be kept in the refrigerator.

568.5 All frozen foods shall be stored at zero (0) degrees Fahrenheit or lower. A reliable and visible thermometer shall be kept in the freezer. Frozen foods which have been thawed shall not be refrozen.

568.6 Potentially hazardous frozen foods shall be thawed at refrigerator temperatures of forty-five (45) degrees Fahrenheit or below.

568.7 Eggs shall be stored below all other foods. Fresh whole eggs shall not be cracked more than (2) hours before use.

568.8 All toxic compounds shall be used with extreme caution and shall be stored in an area separate from food preparation, storage and services areas.

568.9 Work areas and equipment shall be adequate for the efficient preparation and service of foods.

568.10 Supplies of perishable foods for a one (1) day period and of nonperishable foods for a three (3) day period shall be on the premises at all times to meet the requirements of the planned menus. If the facility consistently does not have the required one (1) day perishable and three (3) day nonperishable foods, the OLTC will require that the facility alter its food delivery schedule to meet regulations.

568.11 Food served in any nursing home must have been prepared on the premises or in an establishment approved by, and meeting regulatory standards of, the Arkansas Department of Health.

568.12 The use of tobacco in any form is prohibited where food or drink is prepared, stored, cooked, or where dishes or pots and pans are washed or stored.

568.13 Foods shall be cut, chopped, ground, or pureed to meet the individual needs of the patient.

568.14 If a patient refuses foods served, substitutes of similar nutritive value shall be offered.

569 Sanitary Conditions

569.1 Food shall be procured from sources approved or considered satisfactory by Federal, State and Local authorities.

569.2 Floors shall be cleaned after each meal.
569.3 Dishes, silverware, and glasses shall be free of breaks, tarnish, stain, cracks and chips. There shall be an ample supply to serve all patients. Patients will be furnished knives, forks, and spoons unless there is documentation to indicate the patient is incapable of using these implements.

569.4 Vessels used in preparing, serving or storing food shall be made of seamless metal or a nonabsorbent material which can be easily cleaned and shall be used for no other purpose. Enamelware shall not be used.

569.5 Rags from patient bedding or clothing or bath shall not be used in dietetic services for any purpose.

569.6 Dishes, knives, forks, spoons, and other utensils used in the preparation and serving of foods must be stored in such a manner as to be protected from rodents, flies or other insects, dust, dirt, or other contamination. Silverware shall be stored in a clean container that can be thoroughly washed and sanitized.

569.7 Paper or loose covering shall not be used on shelves, cabinets, cabinet drawers, refrigerators, or stoves. Storage cabinets shall be kept clean. Cardboard boxes shall not be saved and used for the storage of food or articles which were not packed in the original box.

569.8 Dishes, trays, silverware, glasses and food preparation dishes shall be cleaned, washed, and sanitized by only the following methods:

569.8.1 Manual Dishwashing

Facilities may wash and sanitize such items in a three-compartment sink. Items shall be first thoroughly cleaned and washed in warm water, one hundred to one-hundred-twenty (100 to 120) degrees Fahrenheit, containing an adequate amount of an effective soap or detergent to remove grease and solids. The wash water shall be changed often enough to keep it reasonably clean. Next, they shall be rinsed in clean water which is heated to a temperature of at least one-hundred-and-forty (140) degrees Fahrenheit. Next, they shall be completely submerged for at least two (2) minutes in clean hot water at a temperature of at least one-hundred-and-eighty (180) degrees Fahrenheit. A visible and reliable thermometer shall be conveniently available for testing the water temperature. Pots and pans which are used for preparing food which will be cooked need not be sanitized. All other utensils used in the preparing or serving of food shall be sanitized prior to use.

Dishes, trays, and glasses shall be allowed to air dry before storage; drying cloths shall not be used.

569.8.2. Mechanical Dishwashing Machine

Facilities may wash and sanitize such items in a mechanical spray type dishwashing machine as approved by the OLTC.

569.9 All kitchen garbage, cans, trash and other waste materials shall be stored in water-tight containers provided with close-fitting lids. The kitchen garbage container shall be
emptied and thoroughly washed after each meal and treated with a disinfectant if necessary.

569.10 All equipment and utensils shall be so constructed as to be cleaned easily and shall be kept clean at all times.

569.11 All mops, brushes, dustpans, and other housecleaning equipment shall be stored in a janitor’s closet when not in use.

569.12 Meat and other foods shall not be placed in direct contact with ice.

569.13 Only ice of assured bacterial safety shall be permitted for use in drinks, or for the cooling of drinks by direct contact. A scoop shall be used for handling ice. Ice used to chill bottled drinks or salads, or in any food preparation, shall not be used for drinking purposes. Portable ice chests which can be sanitized shall be cleaned daily, and the ice machine shall be cleaned at least weekly.

569.14 Hand-washing facilities shall be equipped with blade-action controls and hot and cold water. Soap and towel dispensers and a step-on trash can shall be located conveniently to the lavatory. The kitchen lavatory shall be equipped with a goose-necked spout.

569.15 If table covers are used in the dining room they shall be of a fabric which can be laundered. They shall be kept clean and changed at least daily.

570 Dietetic Services Staffing

570.1 Staffing shall be correlated to the size of the facility and the total patient meals served.

Facilities with fifty-nine (59) beds or less shall be staffed at ten (10) minutes for each meal served.

Facilities with sixty (60) to eighty (80) beds shall be staffed at eight and one-half (8.5) minutes for each meal served.

Facilities with eighty-one (81) to one-hundred twenty (120) beds shall be staffed at six (6) minutes for each meal served.

Facilities with one-hundred twenty-one (121) beds or more shall be staffed at five and one-half (5.5) minutes for each meal served.

570.2 Method of determining dietary staffing:

Number (#) for minutes per meal times (x) three (3) equals (=) number of minutes per day, number of minutes per day times (x) number of patients divided by (/) 60 equals (=) number of hours required per day.

570.3 Food Services Supervisors or Certified Dietary Managers in homes of fifty (50) beds or less may be assigned to duties in the department, such as cooking, for no more than fifty percent (50%) of their total work hours, but must be allowed adequate time for supervisory
tasks. In homes of more than fifty (50) beds the Food Services Supervisor, Certified Dietary Manager, or an individual enrolled in a food service supervisor course approved by the office of Long Term Care may be assigned to duties such as cooking no more that twenty-five percent (25%) of their total work hours, but must be allowed adequate time from these assignments for supervisory tasks.

570.4 The number of employees will be rounded off to the nearest whole number.

570.5 If deficiencies are found that directly relate to shortage of personnel, additional personnel will be required.

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$72035. Dietetic Service Supervisor.

Dietetic service supervisor means a person who meets one of the following requirements:

(a) Is a qualified dietitian.

(b) Has a bachelor’s degree with major studies in food and nutrition, dietetics, or food management and has one year of experience in the dietetic service of a health care institution.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Sections 1276 and 1276.1, Health and Safety Code.

$72333. Dietetic Service -General.

"Dietetic service" means a service organized, staffed and equipped to assure that food service to patients is safe, appetizing and provides for their nutritional needs.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

$72335. Dietetic Service -Food Service.

(a) The dietetic service shall provide food of the quality and quantity to meet each patient’s needs in accordance with the physicians’ orders and to meet "The Recommended Daily Dietary Allowance," the most current edition, adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, and the following:
(1) Not less than 3 meals shall be served daily and with not more than a 14-hour span between the last meal and the first meal of the following day.

(2) Between-meal feeding shall be provided as required by the diet order. Bedtime nourishments shall be offered to all patients unless contraindicated.

(3) Patient food preferences shall be adhered to as much as possible and substitutes for all food refused shall be from appropriate food groups. Condiments such as salt, pepper or sugar shall be available at each meal unless contraindicated by the diet order.

(4) Table service shall be provided for all patients who can and wish to eat at a table. Tables of appropriate height shall be provided for patients in wheelchairs.

(5) No food ordered for the facility shall be diverted or taken from the facility. No rebates shall be received or allowed to the facility or its owners, directors, officers or employees from any commercial food source.

(6) When food is provided by an outside resource, the facility shall ensure that all federal, state and local requirements are met. The facility shall maintain a written plan, adequate space, equipment and food supplies to provide patients' food service in emergencies.

(7) Recipes for all items that are prepared for regular and therapeutic diets shall be available and used to prepare attractive and palatable meals, in which nutritive values, flavor and appearance are conserved. Food shall be served attractively, at appropriate temperatures with appropriate eating utensils and in a form to meet individual needs.

(b) A current profile card shall be maintained for each patient, indicating diet order, likes, dislikes, allergies to foods, diagnosis and instructions or guidelines to be followed in the preparation and serving of food for the patient.

(c) All regular and therapeutic diets shall be prescribed by a person lawfully authorized to give such an order. Verbal orders may be received and recorded by a qualified dietitian and shall be signed by the prescriber within five days.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.


A current therapeutic diet manual, approved by the dietitian and the patient care policy committee, shall be readily available to the attending physician, nursing and dietetic personnel. It shall be reviewed annually and revised at least every five years.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72339. Dietetic Service - Therapeutic Diets.
Therapeutic diets shall be provided for each patient as prescribed and shall be planned, prepared and served with supervision and/or consultation from the dietitian. Persons responsible for therapeutic diets shall have sufficient knowledge of food values to make appropriate substitutions when necessary.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72341. Dietetic Service - Menus.

(a) Menus for regular and therapeutic diets shall be written at least one week in advance, dated and posted in the kitchen at least one week in advance.

(b) All menus shall be approved by the dietitian.

(c) If any meal served varies from the planned menu, the change and the reason for the change shall be noted in writing on the posted menu in the kitchen.

(d) Menus shall provide a variety of foods and indicate standard portions at each meal. Menus shall be varied for the same day of consecutive weeks. If a cycle menu is used, the cycle shall be of no less than three weeks duration and shall be revised quarterly.

(e) Menus shall be adjusted to include seasonal commodities.

(f) Menus shall be planned with consideration of cultural background and food habits of patients.

(g) A copy of the menu as served shall be kept on file for at least 30 days.

(h) Itemized records of food purchases shall be kept for one year and available for review by the Department. Food purchases invoices are acceptable provided they list amounts and types of foods purchased.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72343. Dietetic Service - Food Storage.

(a) Food storage areas shall be clean at all times.

(b) All foods or food items not requiring refrigeration shall be stored above the floor, on shelves, racks, dollies or other surfaces which facilitate thorough cleaning, in a ventilated room, not subject to sewage or wastewater backflow or contamination by condensation, leakage, rodents or vermin. All packaged food, canned foods, or food items stored shall be kept clean and dry at all times.
(c) All readily perishable foods or beverages shall be maintained at temperatures of 7 degrees C (45 degrees F) or below, or at 60 degrees C (140 degrees F) or above, at all times, except during necessary periods of preparation and service. Frozen foods shall be stored at minus 18 degrees C (0 degrees F) or below at all times. There shall be an accurate thermometer in each refrigerator and freezer and in storerooms used for perishable foods. All foods stored in walk-in refrigerators and freezers shall be stored above the floor on shelves, racks, dollies or other surfaces that facilitate thorough cleaning.

(d) Pesticides and other toxic substances and drugs shall not be stored in the kitchen area or in storerooms for food or food preparation equipment and utensils.

(e) Soaps, detergents, cleaning compounds or similar substances shall be stored in separate storage areas.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72345. Dietetic -Sanitation.

(a) All kitchens and kitchen areas shall be kept clean, free from litter and rubbish and protected from rodents, roaches, flies and other insects.

(b) All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair and shall be free from breaks, corrosion, open seams, cracks and chipped areas.

(c) Plastic ware, china and glassware that cannot be sanitized or are hazardous because of chips, cracks or loss of glaze shall be discarded.

(d) Ice which is used in connection with food or drink shall be from a sanitary source and shall be handled and dispensed in a sanitary manner.

(e) Kitchen wastes that are not disposed of by mechanical means shall be kept in clean, leakproof, nonabsorbent, tightly closed containers and shall be disposed of as frequently as necessary to prevent a nuisance or unsightliness.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.

s 72347. Dietetic Service -Cleaning and Disinfection of Utensils.

(a) All utensils used for eating, drinking and in the preparation and serving of food and drink shall be cleaned and disinfected or discarded after each usage.

(b) Gross food particles shall be removed by careful scraping and prerinsing in running water.
(c) Utensils not washed by mechanical means shall be placed in hot water with a minimum
temperature of 43 degrees C (110 degrees F), washed using soap or detergent, rinsed in hot
water to remove soap or detergent and disinfected by one of the following methods or
equivalent, as approved by the Department:

(1) Immersion for at least two minutes in clean water at 77 degrees C (170 degrees F).
(2) Immersion for at least 30 seconds in clean water at 83 degrees C (180 degrees F).
(3) Immersion in water containing bactericidal chemical as approved by the Department.

(d) After disinfection the utensils shall be allowed to drain and dry in racks or baskets on
nonabsorbent surfaces. Drying cloths shall not be used.

(e) Results obtained with dishwashing machines shall be equal to those obtained by the
methods outlined above and all dishwashing machines shall meet the requirements
contained in Standard No. 3, as amended in April 1965, of the National Sanitation
Foundation. Hot water at a minimum temperature of 83 degrees C (180 degrees F), shall be
maintained at the manifold of the final rinse.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section
1276, Health and Safety Code.

s 72349. Dietetic Service -Equipment and Supplies.

(a) Equipment of the type and in the amount necessary for the proper preparation, serving
and storing of food and for proper dishwashing shall be provided and maintained in good
working order.

(b) Fixed and mobile equipment in the dietetic service area shall be located to assure
sanitary and safe operation and shall be of sufficient size to handle the needs of the facility.

(c) The dietetic service area shall be ventilated in a manner that will maintain comfortable
working conditions, remove objectionable odors, fumes and prevent excessive
condensation.

(d) Food supplies shall meet the following standards:

(1) At least one week's supply of staple foods and at least two days' supply of perishable
foods shall be maintained on the premises. Food supplies shall meet the requirements of the
weekly menu including the therapeutic diets ordered.

(2) All food shall be of good quality and procured from sources approved or considered
satisfactory by federal, state or local authorities. Food in unlabeled, rusty, leaking, broken
containers or cans with side seam dents, rim dents or swells shall not be retained or used.

(3) Milk, when served as a beverage, shall be pasteurized Grade A or certified unless
otherwise prescribed by the physician’s diet order. Milk, milk products and products
resembling milk shall be processed or manufactured in milk product plants meeting the
requirements of Division 15 of the California Food and Agricultural Code. Powdered milk shall not be used as a beverage but may be used in cooking.

(4) Milk shall be served in individual containers or from a dispensing device which has been approved for such use, by the local health department or from the original container. Milk shall be dispensed directly into the glass or other container from which the patient drinks.

(5) Catered foods and beverages from a source outside the licensed facility shall be prepared, packed, properly identified, stored and transported in compliance with these regulations and other applicable federal, state and local codes.

(6) Foods held in refrigerated or other storage areas shall be covered. Liquids and food which are prepared and not served shall be tightly covered, stored appropriately, clearly labeled and dated. A written procedure shall be established and followed for the safe use of leftover foods.

(7) Spoiled or contaminated food shall not be served.

s 72351. Dietetic Service -Staff.

(a) A dietitian shall be employed on a full-time, part-time or consulting basis. Part-time or consultant services shall be provided on the premises at appropriate times on a regularly scheduled basis. A written record of the frequency, nature and duration of the consultant’s visits shall be maintained.

(b) If a dietitian is not employed full-time, a full-time person who is a graduate of a state approved course that provides 90 or more hours of classroom instruction in food supervision shall be employed to be responsible for the operation of the food service. The dietetic supervisor may also cook, provided sufficient time is allowed for managerial responsibilities.

(c) Sufficient staff shall be employed, oriented, trained and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the dietetic service areas. If dietetic service employees are assigned duties in other services, those duties shall not interfere with the sanitation, safety or time required for dietetic work assignments.

(d) Current work schedules by job titles and weekly time schedules by job titles shall be posted.

(e) Dietetic service personnel shall be trained in basic food sanitation techniques, wear clean clothing, and a cap or a hair net, and shall be excluded from duty when affected by skin infection or communicable diseases. Beards and mustaches which are not closely cropped and neatly trimmed shall be covered.

Note: Authority cited: Sections 208(a) and 1275, Health and Safety Code. Reference: Section 1276, Health and Safety Code.
s 72523. Patient Care Policies and Procedures.

... (c) Each facility shall establish and implement policies and procedures, including but not limited to:

... (4) Dietary services policies and procedures which include:

(A) Provision for safe, nutritious food preparation and service.

(B) A provision for maintaining a current dietetic service procedure manual.

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Part 5. RESIDENT CARE

5.6 NUTRITIONAL CARE PLANNING.

...(b) In the event the facility elects to utilize paid feeding assistants or feeding assistant volunteers pursuant to Part 11.001 of this Chapter V, as part of the history and assessment conducted pursuant to paragraph (a) of this 5.6, the interdisciplinary team shall evaluate each resident regarding the suitability of the resident to be fed and hydrated by a feeding assistant. Such evaluation shall include, but need not be limited to each resident's level of care, functional status concerning feeding and hydration, and, the resident's ability to cooperate and communicate with staff

5.1.11 FLUID MANAGEMENT. The facility shall provide fluid in quantities needed to maintain hydration and body weight and shall:

(1) assess each resident's hydration needs;

(2) observe and evaluate food and fluid intake daily and record and report deviations from sufficient food and fluid intake;

(3) provide assistance and encouragement to residents requiring assistance to meet their food and fluid requirements;
(4) provide self-help adaptive devices and encourage their use.

7.9 RESIDENTSOCIALIZATION. Except where contraindicated by physician order or resident preference, resident shall be...encouraged to eat in a dining room.

Part 11. DIETARY SERVICES

11.1 DIETARY SERVICES. The facility shall provide meals that are nutritious, attractive, well balanced, in conformity with physician orders, and served at the appropriate temperature in order to enhance residents' health and well being. It shall also offer nourishing snacks.

11.2 ORGANIZATION. The facility shall have an organized food service, appropriately planned, equipped, and staffed to prepare and serve the number of meals created in the kitchen. The facility shall offer at least three meals or their equivalent per day, at regular times, with not more than 14 hour between the beginning of the evening meal and breakfast. Routine seatings shall be no later than 8 A.M. for breakfast and no earlier than 5 P.M. for the evening meal. Timing of meals shall generally comport with cultural practices in the community, unless inconsistent with these regulations.

11.3 PERSONNEL. The administrator shall designate a dietician or person qualified by training and experience to be responsible for the dietary services.

11.3.1 If not a professional dietician, the designee shall obtain frequent regularly scheduled consultation from a registered dietician or a person eligible for registration who meets the American Dietetic Association's qualifications standards or a graduate from a baccalaureate degree program with major studies in food and nutrition.

11.3.2 The number of trained food service personnel shall be sufficient to provide food service to the residents in the facility over a period of 12 hours or more per day.

11.4 POLICIES. The facility shall have written policies and procedures approved by the governing body for dietary practices and shall assure that they are followed by staff members.

11.5 ORDERS. All diets and nourishments shall be provided and served as by the attending physician.

11.6 NUTRITIONAL ASSESSMENT AND PROGRESS NOTES. The dietary supervisor consultant shall participate, in resident, assessment and care planning as prescribed by 5.2, 5.6, and 5.7.

11.6.1 The supervisor or consultant shall write progress notes on each resident at least at six month intervals.

11.6.2 The facility shall reasonably accommodate individual resident references in meals by offering appropriate and nutritionally adequate substitutes. (See Section 5.1.13(4).)
11.7 DIET MANUAL. The facility shall maintain a current diet manual conveniently available to the dietary and nursing staffs. For purposes of this section, current means initially published or revised within five years.

11.8 MENUS. Menus shall meet the requirements of the Dietary Guidelines for Americans, 2005, U.S. Department of Health and Human Services and U.S. Department of Agriculture, 6th Edition. Menus shall be written, approved by a dietitian and planned at least one week in advance, with consideration given to residents’ personal tastes, desires, and cultural patterns. Menus shall be posted in the kitchen area and retained by the facility for at least four weeks after the menu is used. If menus are changed, all changes shall be posted as served. A standard meal planning guide shall be used primarily for menu planning and food purchasing. It is not intended to meet the nutritional needs of all residents. This guide shall be adjusted to consider individual differences since residents may have different nutritional needs based upon age, size, gender, physical activity, and state of health. There are many meal planning guides from reputable sources; i.e., American Diabetes Association, American Dietetic Association, American Medical Association, or U.S. Department of Agriculture, that are available and appropriate for use when adjusted to meet each resident’s needs. Recipes appropriate to the menus and needs of the facility shall be available to the cooks.

11.9 SPACE. The facility shall provide adequate space to accommodate fixed and movable equipment and employee functions; receive, store, refrigerate, and prepare food; assemble trays; store carts; and clean dishes, pots, and pans.

11.10 REFRIGERATOR SAFETY. Walk-in refrigerators and freezers shall have inside lighting and inside lock releases. In facilities constructed after the effective date of these regulations, there shall be an alarm system that is clearly audible throughout the food preparation and storage areas of the facility and that may be readily activated by staff members from within walk-in refrigerators or freezers.

11.11 EQUIPMENT. The facility shall provide equipment sufficient in amount, adequate in type for efficient and timely preparation of meals.

11.12 STORAGE OF DISHES AND GLASSES. Clean glasses, cups, and other dishes shall not be stored in such a manner as to entrap moisture.

11.13 ISOLATION. Dishes and utensils with which food is served to residents in isolation because of infectious diseases shall be sanitized if they are contaminated with infectious material such as blood drainage or secretions or shall be disposable.

11.14 MILK. Milk for drinking shall be provided to consumers in an unopened, commercially filled container not exceeding a one pint capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser, or poured directly into the drinking vessel from a commercially filled half-gallon or gallon container that has been refrigerated until served to maintain a temperature of 45 degrees FAHRENHEIT or less.

11.15 NAIL POLISH AND FALSE NAILS. Staff involved in preparing and serving food shall not wear nail polish or false nails.
11.16 DINING AND RECREATIONAL FACILITIES. Dining and recreation areas shall be readily accessible to all residents, and shall not be in a hallway or lane of traffic in or out of the facility. Such space shall be sufficient to accommodate activities conducted there, consistent with resident comfort and safety. The dining and recreation areas may be separate or combined.

Part 11.001. FEEDING ASSISTANTS

11.001.1 Definitions.

Unless otherwise indicated, as used in Part 11.001:

(1) (a) “Feeding assistant” means an individual who assists residents by performing feeding assistant tasks, meets the requirements of Section 11.001.2 and 11.001.3; and, is paid as an employee of a facility; used by a facility under arrangement with another agency or organization; or, who is an unpaid volunteer.

(b) The following individuals may provide feeding assistance to residents without meeting the requirements of section 11.001.2 and 11.001.3:

(i) Registered or licensed nurses;

(ii) Certified nurse aides;

(iii) Registered dietitians;

(iv) Licensed health care practitioners with appropriate experience in feeding and hydrating residents;

(v) Private duty aides and students in nursing education programs and other allied health programs who utilize facilities as clinical practice sites; or,

(vi) Resident family members.

(2) “Employing facility” means a facility that employs paid feeding assistants or utilizes the services of volunteer feeding assistants.

(3) “Feeding assistant tasks” include and are limited to the provision of feeding and hydration services provided in accordance with this Section 11.001. A feeding assistant may not perform or be assigned to perform any task that constitutes: the practice of professional nursing as defined in §12-38-103 (10), C.R.S.; the practice of practical nursing as defined in §12-38-103 (9), C.R.S.; or the practice of a nurse aide as defined in §12-38.1-102 (5), C.R.S.

(4) “Training program provider” means, an employing facility or other training entity approved by the department pursuant to 11.001.6 to administer a feeding assistant training program.

11.001.2 Authorization; Qualifications
(1) A facility may employ or use an individual as a volunteer feeding assistant if: the individual meets all applicable requirements of this Chapter V; and, the facility first verifies that the individual:

(a) Has successfully completed a feeding assistant training program in accordance with 11.001.5; and,

(b) Is at least sixteen 16 years of age.

(2) (a) An employing facility must screen prospective feeding assistants to ensure individuals have no history that would preclude their interaction with residents.

(b) In addition to applicable facility pre-employment screening procedures, an employing facility shall obtain from each prospective paid and volunteer feeding assistant a copy of the recognition of completion document evidencing successful completion of the feeding assistant training program issued in accordance with 11.001.5 (1)(b)(II). Additionally, an employing facility shall verify the following:

(I) In the case of an individual who has not previously been employed or volunteered as a feeding assistant and who has received feeding assistant training administered by an entity other than the employing facility, successful completion of the feeding assistant training program with the training entity that provided such training;

(II) In the case of an individual who has been previously employed as a feeding assistant, feeding assistant employment history with the prospective employee’s previous long-term care facility employer;

(III) In the case of an individual who has previously volunteered as a feeding assistant, feeding assistant volunteer history with the long-term care facility that previously utilized the services of that individual.

(3) Feeding assistants may not be counted toward meeting or complying with any requirement for nursing care staff and functions of a facility, including minimum nurse staffing requirements.

11.001.3 Supervision; emergencies

(1) A feeding assistant shall work under the supervision of and shall report to a registered or licensed practical nurse. Each feeding assistant shall be given instruction by a registered nurse, licensed practical nurse or registered dietitian concerning the specific feeding and hydration needs of each resident the feeding assistant will be assigned to assist.

(2) (a) Feeding assistants may perform feeding assistant tasks in congregate dining areas. A nurse shall be immediately available in case of an emergency during meals.

(b) Upon a determination by the charge nurse pursuant to 11.001.4 that it is safe to do so, based on assessments conducted pursuant to 11.001.4(1), a feeding assistant may perform feeding assistant tasks in a resident room for a resident who is unable or unwilling to dine in a congregate dining area.
(3) In an emergency, a feeding assistant must immediately secure the assistance of a supervisory nurse or physician. Feeding assistants shall know how to use resident call systems. This includes use of call light systems and other methods of immediately securing the assistance of supervisory nurses and physicians.

11.001.4 Resident Selection

(1) The facility must base resident selection on the charge nurse's assessment of the resident's present condition and the following provisions of this Chapter V:

(a) Most recent resident assessment performed pursuant to Section 5.2;

(b) Nutritional care plan developed pursuant to Section 5.6; and,

(c) Plan of care developed pursuant to Section 5.7.

(2) A feeding assistant may perform feeding assistant tasks for those residents who require assistance or encouragement with feeding and hydration. Consistent with the assessments and care plans specified in (1) of this section 11.001.4, a facility must ensure that a feeding assistant feeds only residents who do not have a complicated feeding problem. Such problems include, but are not limited to, difficulty with swallowing, recurrent lung aspirations, and tube or parenteral/ intravenous feedings.

11.001.5 Feeding Assistant Training Program

(1) (a) The feeding assistant training program shall be administered by a training program provider approved in accordance with 11.001.6 and shall consist of not less than twelve (12) actual clock hours of classroom instruction. Class size shall be limited to twenty (20) enrollees. Classroom instruction shall be conducted in accordance with current standards of practice and shall conform to the “Feeding Assistant Curriculum Specifications and Program Requirements” available from the department. Curriculum subjects shall include, but need not be limited to, the following:

(I) Feeding techniques;

(II) Assistance with feeding and hydration;

(III) Communication and interpersonal skills;

(IV) Appropriate responses to resident behavior;

(V) Safety and emergency procedures, including the Heimlich maneuver;

(VI) Infection control;

(VII) Resident rights; and,

(VIII) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.
(b) (I) Successful completion of the feeding assistant training program requires each individual enrolled to obtain a score of eighty (80) percent or greater in a written examination provided at the conclusion of classroom instruction. Written examination questions shall be of an appropriate level of difficulty to reflect proficiency in each module of the “Feeding Assistant Curriculum Specifications and Program Requirements” and, at the discretion of the training program provider, may include ancillary feeding assistant-related curriculum subjects. Written examination questions shall not be disclosed to candidates in advance and shall be varied in format and content from test-to-test.

(II) Within ten (10) calendar days from successful completion of a feeding assistant training program, a training program provider approved in accordance with 11.001.6 shall furnish each individual who successfully completes the program with a uniform recognition of completion document. Said document shall be in the format designated by and available from the department to be used by the individual to whom it is issued for the purpose of establishing successful completion of the training program. The document shall bear the notarized signature of an authorized representative of the training program provider.

(III) An individual who successfully completes a feeding assistant training program is not required to repeat the program upon employment or upon providing volunteer feeding assistant services at another facility unless the individual has not worked or volunteered in a long term care facility as a feeding assistant for a period of twenty-four (24) consecutive months. In such case, the individual shall not be employed or used as a volunteer feeding assistant by a facility as a paid feeding assistant until the person successfully repeats the feeding assistant training program.

(c) An individual who fails to score eighty (80) percent or greater in the written knowledge test may be retested one time by a training program provider. An individual who fails to pass on the second attempt shall not be retested without the individual first repeating the twelve (12) actual clock hours of classroom instruction specified in subparagraph (1) (a) of this section.

11.001.6 Feeding Assistant Training Program Provider Approval

(1) A feeding assistant training program may be administered by an employing facility or other training entity approved pursuant to this 11.001.6. As used in this 11.001.6, “other training entity” includes: an accredited college, university or vocational school; or, a program, seminar or in-service training sponsored by an organization, association, corporation, group or agency with specific expertise concerning the provision of feeding and hydration services.

(2) Feeding assistant training programs shall use as instructors only individuals who have appropriate experience in feeding and hydrating residents and who hold: a valid Colorado license to practice as a registered or practical nurse; a certificate of registered dietitian through the commission on dietetic registration; a certificate of speech-language pathologist through the American speech-language-hearing association; or, a certificate of registered occupational therapist through the national board for certification in occupational therapy.
(3) (a) An employing facility or other training entity seeking approval to administer a feeding assistant training program shall complete and submit to the department an initial attestation in the format designated by the department certifying that the feeding assistant training program conforms to the “Feeding Assistant Curriculum Specifications and Program Requirements.” Program approval may be granted, for a period not to exceed one year to those programs that meet minimum requirements. Department approval is required prior to initiating feeding assistant training.

(b) A training program provider approved to administer a feeding assistant training program pursuant to this section shall submit annual renewal attestation forms in the format designated by the department in the following manner:

(I) For employing facilities, annually with the facility’s annual license renewal application.

(II) For other training entities, not less than sixty (60) days in advance of the date department approval expires.

(4) Training program providers approved to administer a feeding assistant training program shall maintain the training record of each individual who attends the feeding assistant training program for a period of not less than three (3) years. Based on such records, training program providers shall verify successful completion of the feeding assistant training program pursuant to a request by an employing facility in accordance with 11.001.2 (2)(b) (I).

(5) The department may deny, suspend, or withdraw approval granted under this 11.001.6 upon a determination by the department that good cause exists to do so. Good cause may include, but is not limited to, a determination that a feeding assistant training program is not operated in compliance with applicable regulations.

11.001.7 Policies and Procedures

An employing facility shall develop and implement policies and procedures concerning the use of paid feeding assistants developed in accordance with this section.

11.001.8 Records Maintenance

(1) (a) An employing facility shall maintain a record of all individuals employed as feeding assistants and all individuals who serve as volunteer feeding assistants, including but not limited to records evidencing successful training program completion. Such records shall be maintained for not less than three (3) years from the date of separation or completion of volunteer service.

(b) Based on such records, a facility shall verify previous feeding assistant employment and volunteer history pursuant to a request by an employing facility in accordance with 11.001.2 (2)(b) (II).

11.001.9 Reporting Requirements
(1) Periodically, facilities and training program providers may be required to submit information regarding their feeding assistant program and feeding assistant training program. Such reports may include, but not be limited to:

(a) The number of feeding assistants routinely utilized by the facility to assist residents;

(b) The number of residents identified as benefiting from the feeding assistant program; and,

(c) Information concerning the feeding assistant training program administered by the training program provider.

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19-13-D8t. Chronic and convalescent nursing homes and rest homes with nursing supervision

(q) Dietary services.

1. Each facility shall meet the daily nutritional needs of the patients by providing dietary services directly or through contract.

2. The facility shall:

A. Provide a diet for each patient, as ordered by the patient’s personal physician, based upon current recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, adjusted for age, sex, weight, physical activity, and therapeutic needs of the patients;
B. Adopt a diet manual, as recommended by the facility dietitian or dietary consultant and approved by the facility's medical staff. Such manual shall be used to plan, order, and prepare regular and therapeutic diets;

C. Employ a dietetic service supervisor, who shall supervise the overall operation of the dietary service. If such supervisor is not a dietitian, the facility shall contract for regular consultation of a dietitian;

D. Employ sufficient personnel to carry out the functions of the dietary service and to provide continuous service over a period of 12 hours, which period shall include all mealtimes.

3. The facility shall ensure that the dietary service:

A. Considers the patients' cultural backgrounds, food habits, and personal food preferences in the selection of menus and preparation of foods and beverages pursuant to subdivisions (2)(A) and (2) (B) of this subsection;

B. Has written and dated menus, approved by a dietitian, planned at least seven days in advance;

C. Posts current menus and any changes thereto with the minimum portion sizes in a conspicuous place in both food preparation and patient areas;

D. Serves at least three meals, or their equivalent, daily at regular hours, with not more than a 14 hour span between evening meal and breakfast;

E. Provides appropriate food substitutes of similar nutritional value to patients who refuse the food served;

F. Provides bedtime nourishments for each patient, unless medically contraindicated and documented in the patient's care plan;

G. Provides special equipment, implements or utensils to assist patients while eating, when necessary;

H. Maintains at least three day supply of staple foods at all times.

4. All patients shall be encouraged to eat in the dining room unless medically contraindicated.

5. Records of menus served and food purchased shall be maintained for at least 30 days.
6.5 Food Service

6.5.1 Meals. Therapeutic diets, mechanical alterations and changes in either must be prescribed by an attending physician within 72 hours of implementation. All meals and snacks shall be served in accordance with the therapeutic diet, if prescribed.

6.5.2 Menus

6.5.2.1 Menus shall be planned in advance and a copy of the current week's menu shall be posted in the kitchen and in a public area. Portion sizes shall be listed on a menu in the food service area.

6.5.2.2 Menus showing food actually served each day shall be kept on file for at least 3 months. When changes in the menu are necessary, substitutions of similar nutritive value shall be provided.

6.5.2.3 A 3-day supply of food shall be kept on the premises at all times.

6.5.2.4 A copy of a recent dietary manual shall be available for planning therapeutic menus and as a resource for staff.

6.5.3 Nutritional Assessment

6.5.3.1 The immediate nutritional needs of each resident shall be addressed upon admission.

6.5.3.2 A comprehensive nutritional assessment which includes an evaluation of each resident's caloric, protein, and fluid requirements shall be completed within 14 days of admission in consultation with a dietitian.

6.5.3.3 The facility shall have an ongoing evaluation and assessment program to meet the nutritional needs of all residents.

6.5.3.4 The facility shall obtain and document each resident's weight at least monthly.

3000 Division of Long Term Care Residents Protection

3215 Training of Paid Feeding Assistants (Formerly Regulation No. 73)

1.0 Introduction

These regulations allow for the use of Paid Feeding Assistants, as single task workers, to provide feeding assistance in nursing facilities and assisted living facilities. To ensure consistency in the training of Feeding Assistants, the Division of Long Term Care Residents Protection has developed minimum requirements for Feeding Assistant training programs. Each Feeding Assistant training program shall be approved by the Division of Long Term Care Residents Protection. The intent of these regulations is to provide more residents with help in eating and drinking, or encouraging the resident so that more of the meal is consumed, making mealtime a more pleasant experience, and potentially reducing the
incidence of unplanned weight loss and dehydration. The determination of which residents may receive assistance from a Feeding Assistant shall be based on the needs and potential risks to a resident as observed and documented in the resident’s plan of care and the comprehensive assessment of the resident’s functional capacity. While these regulations are not applicable to volunteers and family members, those individuals are encouraged to complete a Feeding Assistant training program.

2.0 Definitions

“Division” The Division of Long Term Care Residents Protection.

“Feeding Assistant” An unlicensed, uncertified person trained to assist residents with nutrition and hydration who has successfully completed an initial training program and has demonstrated competency.

“Feeding Assistant Program” Policies and procedures established by a facility to provide supervision of Feeding Assistants, resident selection criteria, and implementation of Section 3.0 of these regulations.

“Instructors” Registered nurses, advanced practice nurses, dietitians, speech pathologists, or a combination of such professionals, who train Feeding Assistants. Occupational therapists may be defined as instructors for purposes of training in special needs as described in Section 3.0 of these regulations.

“Resident” A person admitted to a nursing facility or assisted living facility licensed pursuant to 16 Del.C. Ch. 11.

“Student” A person enrolled in an approved Feeding Assistant training program.

“Supervision” Direct oversight by a registered nurse or licensed practical nurse who is in the unit or on the floor where feeding assistance is furnished.

“Supervisory Nurse” The nurse who is responsible for a specific area of a facility such as a floor or unit.

3.0 General Requirements

3.1 Facilities implementing Feeding Assistant programs shall have written policies and procedures in place that include each item in Section 3.1.

3.2 Facilities implementing Feeding Assistant Programs shall strictly limit the responsibilities of each Feeding Assistant.

3.2.1 The facility shall ensure that each Feeding Assistant performs only those duties for which he/she has been specifically trained.

3.2.2 The facility shall ensure that each Feeding Assistant seeks assistance from other members of the resident care team for all resident needs other than nutrition/hydration.
3.3 Each Feeding Assistant employed by any facility either as facility or contract-agency staff shall be required to meet the following:

3.3.1 Each unlicensed or uncertified individual who feeds and hydrates residents in a facility, with the exception of family members and volunteers, shall successfully complete a Feeding Assistant training program approved by the Division of Long Term Care Residents Protection.

3.3.2 Feeding Assistants shall be required to successfully complete an approved Feeding Assistant training program before providing nutrition/hydration to residents.

3.3.3 A Feeding Assistant may provide nutrition/hydration to a resident only under the supervision of a registered nurse or licensed practical nurse who is present in the unit or on the floor where the task is performed and is readily available to provide assistance to the Feeding Assistant when needed.

3.3.4 A Feeding Assistant may provide nutrition/hydration only for those residents who have been assessed and approved by the supervisory nurse for such assistance. The resident assessment shall be based on the needs of, and potential risks to, the resident as observed and documented in the resident’s written plan of care and the latest comprehensive assessment of the resident’s functional capacity.

3.3.5 A Feeding Assistant shall not feed residents who are assessed to have complicated feeding problems such as recurrent lung aspirations, difficulty swallowing, feeding tubes, parenteral/IV feedings, chronic coughing or choking.

3.4 Participating facilities shall maintain records regarding the following:

3.4.1 The names of Feeding Assistants hired solely to provide nutrition and hydration.

3.4.2 The names of Feeding Assistants performing additional paid tasks in the facility.

3.4.3 The names of residents served by the Feeding Assistants.

3.5 The facility shall have policies and procedures in place to assure that Feeding Assistants report and record appropriate observations made while providing nutrition and hydration to nursing staff.

3.6 The resident’s record shall have documentation that the residents may be fed by a Feeding Assistant. Examples of such documentation include care plans, minimum data sets, uniform assessment instruments and flow charts.

3.7 The supervisory nurse shall request a physician referral to a speech pathologist for an assessment of a resident served by a Feeding Assistant when indicated, e.g., when there has been a change in the resident’s swallowing ability.

3.8 The facility shall maintain a list of facility staff qualified to train Feeding Assistants.

3.9 Feeding Assistants shall not be counted toward meeting any minimum staffing requirements.
4.0 Feeding Assistant Training Program Requirements

4.1 General Training Requirements

4.1.1 Each Feeding Assistant training program shall be approved by the Division.

4.1.2 To obtain approval, the curriculum content for the Feeding Assistant training programs shall meet each of the following requirements:

4.1.2.1 The program shall be a minimum of 12 hours to include classroom instruction and demonstrated competency.

4.1.2.2 Classroom instruction and demonstrated competency in each requirement shall be completed prior to students providing resident nutrition/hydration. Programs shall maintain documentation of completion of requirements.

4.1.2.3 At the completion of training, each student who has satisfactorily completed a Feeding Assistant training program shall be provided with documentation of completion of a Delaware Feeding Assistant Program which shall be transferable among facilities with Feeding Assistant programs.

4.1.2.4 The instructor shall directly supervise students at all times while students are demonstrating competency.

4.1.2.5 Programs shall notify the Division in writing when changes to the program or the instructors are made.

4.2 Curriculum Content

4.2.1 Feeding Assistant Role and Function

4.2.1.1 On-the-job conduct, appearance, grooming, personal hygiene and ethical behavior.

4.2.1.2 Responsibilities and limitations of a Feeding Assistant.

4.2.1.2.1 A Feeding Assistant shall perform only those duties for which he/she has been specifically trained.

4.2.1.2.2 A Feeding Assistant shall seek assistance from other members of the resident care team for all resident needs other than nutrition/hydration.

4.2.1.3 Reporting and documenting incidents.

4.2.1.4 Knowledge of the "chain of command" in the facility.

4.2.1.5 Importance of punctuality and commitment to the job.

4.2.2 Resident Rights

4.2.2.1 Providing dignity and maintaining confidentiality.
4.2.2.2 Promoting the resident’s right to make personal choices to accommodate individual needs.

4.2.2.3 Maintaining care and security of resident’s personal possessions.

4.2.2.4 Providing care which ensures that the resident is free from abuse, mistreatment, neglect or financial exploitation.

4.2.3 Psychosocial Factors

4.2.3.1 Verbal and non-verbal communication and interpersonal skills with residents, including those with dementia.

4.2.3.2 Religious, ethnic and personal food preferences.

4.2.4 Appropriate Responses to Resident Behaviors

4.2.4.1 Identifying behaviors which require assistance from professional staff.

4.2.4.2 Recognizing and reporting changes in residents that are inconsistent with their normal behavior.

4.2.4.3 Distinguishing between normal eating and drinking behaviors and those which need to be reported.

4.2.5 Safety and Emergency Procedures

4.2.5.1 Recognizing emergencies which require assistance from other members of the resident care team.

4.2.5.2 Learning appropriate use of the resident call system.

4.2.5.3 Identifying when a resident is choking.

4.2.5.4 Learning how to perform the Heimlich maneuver.

4.2.6 Nutrition/Hydration

4.2.6.1 Understanding of therapeutic diets, supplements and dietary restrictions, including consistency restrictions.

4.2.6.2 Understanding of fluid needs and restrictions.

4.2.6.3 Understanding tips to encourage intake.

4.2.6.4 Understanding of food substitution policy.

4.2.6.5 Understanding use of special feeding devices, including use of straws when deemed appropriate and beneficial to a resident.

4.2.6.6 Understanding the components of a healthy diet.
4.2.6.7 Understanding factors that cause higher risk for nutrition and hydration problems.

4.2.7 Infection Control

4.2.7.1 Knowledge of proper hand washing and hygiene.

4.2.7.2 Knowledge of disease transmission and infection prevention.

4.2.8 Monitoring and Reporting Intake

4.2.8.1 Fluids

4.2.8.1.1 Identifying amounts consumed according to facility policy and procedures.

4.2.8.1.2 Identifying items that are liquid or classified as liquid.

4.2.8.1.3 Recording liquid intake accurately.

4.2.8.2 Foods

4.2.8.2.1 Identifying percentage of food consumed according to facility policy and procedure.

4.2.8.2.2 Recording amount eaten accurately.

4.2.8.2.3 Reporting food-related resident problems.

4.3 Competencies

4.3.1 Feeding Techniques

4.3.1.1 Check resident’s identification and diet card to ensure that resident has received the correct tray.

4.3.1.2 Provide resident with napkin and clothing protector, as needed.

4.3.1.3 Describe selection and location of foods on tray.

4.3.1.4 Assist resident with food preparation, as needed.

4.3.1.5 Observe to make sure each mouthful of food is swallowed before more is ingested.

4.3.1.6 Offer liquids at intervals with solid food.

4.3.1.7 Record food and fluid intake separately and accurately.

4.3.2 Social/Environmental Factors

4.3.2.1 Encourage resident to eat independently, if appropriate.

4.3.2.2 Provide cuing and prompting during meals as needed.
4.3.2.3 Make pleasant conversation, but refrain from asking questions while the resident has food in his/her mouth or asking questions that require lengthy answers.

4.3.2.4 Never rush the resident while feeding.

4.3.2.5 Sit next to the resident to convey an unhurried feeling.

4.3.2.6 Keep the resident focused on eating. Avoid distractions.

4.3.2.7 Be aware of infection control techniques, including avoidance of blowing on hot food and sharing or sampling resident’s meal.

4.3.3 Special Needs

4.3.3.1 Use hand on hand to assist resident, as needed.

4.3.3.2 Help resident to grasp eating utensils and beverage containers.

4.3.3.3 Help resident with assistive devices such as plate guards and adaptive eating utensils.

7 DE Reg. 1186 (3/1/04)

3217.3 The Infection Control Committee shall establish written infection control policies and procedures for at least the following:

(a) Investigating, controlling, and preventing infections in the facility;

(b) Handling food;
(e) Controlling pests and vermin;

(f) The prevention or spread of infection;

(g) Recording incidents and corrective actions related to infections…

3218 DIETARY SUPERVISION

3218.1 Nursing employees shall ensure that each resident receives the diet prescribed and shall note any dietary problem in the resident’s medical record.

3218.2 Each resident who needs assistance to eat shall receive it promptly upon the serving of his or her meals.

3218.3 Special eating equipment and utensils shall be provided for each resident who needs them.

3218.4 The facility shall ensure that residents are fed in accordance with the comprehensive assessment and in accordance with section 3207.6 of this chapter.

3219 DIETARY SERVICES

3219.1 Food and drink shall be clean, wholesome, free from spoilage, safe for human consumption, and served in accordance with the requirements set forth in Title 23, Subtitle B, D.C. Municipal Regulations (DCMR), Chapters 24 through 40.

3219.2 Each facility shall employ sufficient food service employees who are competent and qualified to carry out the functions of the dietary services.

3219.3 A regularly scheduled program of in-service education shall be conducted for all food service employees hired after the effective date of these regulations. Records should be maintained on in-service programs and shall be available for review.

3219.4 The curriculum for regularly scheduled in-service education programs for food service employees may include, but not be limited to, the following:

(a) Disaster and emergency procedures;

(b) Infection control;

(c) Safety and accident prevention;

(d) Therapeutic diets;

(e) Food handling;

(f) Personal hygiene;

(g) Residents’ rights; and

(h) Psychological aspects of aging.
3219.5 Each food service employee shall wear clean, washable garments while working, and shall keep his or her hands clean at all times.

3219.6 Each food service employee shall wear either a hair net or other head covering.

3219.7 No smoking or tobacco products shall be permitted in the food preparation area.

3219.8 Food waste shall be disposed of in a garbage disposal system or garbage grinder which is conveniently located near each activity and which has adequate capacity to dispose of all readily grindable food waste (garbage) produced.

3220 GENERAL DIETARY REQUIREMENTS

3220.1 Meals shall be adjusted to include fresh fruits and vegetables in season.

3220.2 The temperature for cold foods shall not exceed forty-five degrees (45°) Fahrenheit, and for hot foods shall be above one hundred and forty degrees (140°) Fahrenheit at the point of delivery to the resident.

3220.3 If a resident refuses food, appropriate substitutions of comparable nutritive value shall be offered at the same mealtime.

3220.4 Each therapeutic diet shall be prescribed by the attending physician and prepared under the guidance of a dietitian.

3220.5 Each therapeutic diet prescription shall be a part of the resident’s medical record.

3220.6 Each change in a therapeutic diet order shall be authorized by the attending physician and shall be forwarded in writing to the Dietary Service.

3220.7 The dietitian preparing the therapeutic diet shall have access to the resident’s medical record and shall document each observation, consultation and instruction regarding the resident’s acceptance and tolerance of his or her prescribed diet.

3220.8 The supervisor or manager of food services shall make weekly rounds at mealtime to observe the preparation and serving of food to residents in order to determine general acceptance of the food by residents.

3220.9 An adequate supply of fresh water shall be available to residents at all times.

3221. DIETARY MANAGEMENT AND RECORDS

3221.1 Each menu, as planned and served, shall be filed and retained for one year.

3221.2 Documentation of the food purchased shall be retained for ninety (90) days.

3221.3 A three (3) day supply of non-perishable staples shall be maintained on the premises.

3221.4 A file of each tested recipe, adjusted to appropriate yield, shall be maintained and used by each employee who prepares food.
3221.5 A two (2) day supply of perishable foods shall be maintained on the premises.

59A-4.110 Dietary Services.

(1) The Administrator must designate one full-time person as a Dietary Services Supervisor. In a facility with a census of 61 or more residents, the duties of the Dietary Services Supervisor shall not include food preparation or service on a regular basis.

(2) The Dietary Services Supervisor shall either be a qualified dietitian or the facility shall obtain consultation from a qualified dietitian. A qualified dietitian is one who:

(a) Is a registered dietitian as defined by the Commission on Dietetic Registration, March 1, 1994, which is incorporated by reference, the credentialing agency for the American Dietetic Association and is currently registered with the American Dietetic Association; or

(b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, as defined by the Commission on Dietetic Registration of the American Dietetic Association, March 1, 1994, which is incorporated by reference, has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

(3) A Dietary Services Supervisor shall be a person who:

(a) Is a qualified dietitian as defined in section 59A-4.110(2)(a), (b), F.A.C.; or

(b) Has successfully completed an associate degree program which meets the education standard established by the American Dietetic Association; or

(c) Has successfully completed a Dietetic Assistant correspondence or class room training program, approved by the American Dietetic Association; or

(d) Has successfully completed a course offered by an accredited college or university that provided 90 or more hours of correspondence or classroom instruction in food service supervision, and has prior work experience as a Dietary Supervisor in a health care institution with consultation from a qualified dietitian;
or

(e) Has training and experience in food service supervision and management in the military service equivalent in content to the program in subparagraphs (3)(b), (c) or (d); or

(f) Is a certified dietary manager who has successfully completed the Dietary Manager's Course and is certified through the Certifying Board for Dietary Managers and is maintaining their certification with continuing clock hours at 45 CEU's per three (3) year period.

(4) A one (1) week supply of a variety of non-perishable food and supplies, that represents a good diet, shall be maintained by the facility.

Specific Authority 400.022(1)(a), (f), (g), 400.141(5), 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 7-1-88, 7-10-91, Formerly 10D-29.110, Amended 4-18-94, 2-6-97.

400.141 Administration and management of nursing home facilities.

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

...(i) If the licensee furnishes food service, provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians. In making rules to implement this paragraph, the agency shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics.

...(q) If the facility implements a dining and hospitality attendant program, ensure that the program is developed and implemented under the supervision of the facility director of nursing. A licensed nurse, licensed speech or occupational therapist, or a registered dietitian must conduct training of dining and hospitality attendants. A person employed by a facility as a dining and hospitality attendant must perform tasks under the direct supervision of a licensed nurse.

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(aa) The term "Dining Assistant" means an individual employed or
compensated by the nursing home, or who is used under an arrangement with another agency or organization, to provide assistance with feeding and hydration to residents in need of such assistance. Such individual shall not provide other personal care or nursing services unless certified as a nurse aide or licensed as a registered nurse or practical nurse.

290-5-8-.03 Administration.

(4) ... In addition to all other documents required by state or federal regulations, the nursing home shall maintain documentation of successful completion of the dining assistant training program for each dining assistant.

290-5-8-.06 Dietary Service.

(1) Each home shall employ the services of a qualified dietitian (American Dietetic Association or equivalent qualifications). The services of the dietitian shall not be less than eight (8) hours per month.

(2) Meals, adequate as to quantity and quality, shall be served in sufficient numbers with a maximum of five (5) hours apart with no longer than fourteen (14) hours between the evening meal and breakfast. Between meal and bedtime snacks shall be offered each patient.

(3) A nutritionally adequate diet shall be provided all patients and adjusted to patient’s age, sex, activity, and physical condition. Nutrient concentrates and supplements shall be given only on written order of a physician.

(4) Menus shall be planned or approved by a qualified dietitian and dated. Used menus shall be kept on file for a period of thirty days for reference by the patient’s physician and personnel of the home.

(5) Modified diets shall be provided in accordance with written orders of a physician or dentist. An approved diet manual shall be readily available to food service personnel.

(6) Sufficient perishable foods for a twenty-four hour period and nonperishable foods for a three-day period shall be on the premises for use in an emergency.


290-5-8-.25 Dining Assistants.
(1) Dining assistants shall work under the direct supervision of a registered nurse or a licensed practical nurse. Direct supervision means that the registered nurse or licensed practical nurse is present in the same room and available to respond to the need for assistance.

(2) Dining assistants are to be used to supplement, not replace, existing nursing staff requirements and as such are not considered nursing staff and are not to be included in computing the required minimum hours of direct nursing care.

(3) Dining assistants shall:

(a) Be at least 16 years of age; and

(b) Have successfully completed the dining assistant training program in accordance with these rules.

(4) Dining assistants shall provide feeding and hydration assistance only to those residents who have been determined to meet the following criteria:

(a) A nursing home’s registered professional nursing staff shall determine which residents a dining assistant may safely assist with feeding and hydration. The determination shall be based on the resident’s latest nursing assessment and plan of care, which is performed in accordance with generally accepted standards of practice and applicable laws and regulations;

(b) The resident’s plan of care shall clearly reflect the nurse’s determination that the resident may be safely assisted with feeding and hydration by a dining assistant; and

(c) Dining assistants shall not provide feeding and hydration assistance to residents who have complicated feeding problems, including, but not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(5) The nursing home’s dining assistant training program shall be conducted under the direction of a registered nurse and shall require participants to perform return demonstrations, as applicable, to demonstrate competencies on program components.

(6) The minimum requirements of the dining assistant training program shall include a minimum of 16 hours of training. The training shall include practical application of feeding and hydration skills and shall include at least the following components:

(a) Feeding techniques;

(b) Assistance with feeding and hydration;

(c) Communication and interpersonal skills;

(d) Appropriate responses to resident behavior;

(e) Safety and emergency procedures, including the Heimlich Maneuver;

(f) Infection control;
(g) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting such changes to the supervisory nurse;

(h) Reporting requirements as specified by Article 4 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, the "Long-term Care Facility Resident Abuse Reporting Act"; and

(i) Resident rights, including abuse and neglect prevention.

(7) The nursing home shall maintain a written record of all individuals who have successfully completed the dining assistant training program. At a minimum, such written record maintained by the nursing home must include the dining assistant’s complete name and address, the name and address of the nursing home, the name and signature of the registered nurse directing the training program, and the date the training program was successfully completed. The nursing home shall provide a copy of such written record in a timely manner to any dining assistant who has successfully completed the training program upon the dining assistant’s written request.

(8) A copy of the written record of the satisfactory completion of the dining assistant training program may be used by a subsequent nursing home hiring the dining assistant in lieu of repeating the training, provided that the dining assistant satisfactorily performs return demonstrations of the minimum skills required of dining assistants as specified in these rules for the hiring nursing home. Such satisfactory demonstrations of skills shall be documented by a registered nurse and retained by the nursing home in the dining assistant’s record along with a copy of the initial documentation of successful completion of the training program as specified in these rules.

(9) In addition to all other documents required by state or federal regulations, the nursing home shall maintain the following records:

(a) A copy of the nursing home’s dining assistant training program; and

(b) Documentation of successful completion of the training program for each dining assistant.

**Authority:** O.C.G.A. Sec. 31-7-1 et seq.

(a) The food and nutritional needs of patients shall be met through a nourishing, well-balanced diet in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, and adjusted for age, sex, activity, and disability. The service shall be directed by a dietetic service supervisor.

(b) At least three meals shall be served daily at regular times with:

(1) Not more than a fourteen hour span between a substantial evening meal and breakfast on the following day.

(2) Between meal nourishments consistent with need shall be offered routinely to all patients.

(c) All diets shall be:

(1) Prescribed by the patient's physician with a record of the diet as ordered kept on file.

(2) Planned, prepared, and served by qualified personnel using the current Hawaii Dietetic Association manual.

(3) Reviewed and adjusted as needed.

(d) Therapeutic diets shall be planned by a qualified dietitian, as prescribed by the patient's physician. There shall be prompt and appropriate replacement of foods offered to, but rejected by, patients on therapeutic diets.

(e) A nutritional assessment and plan for each patient shall be recorded in the medical record. The plan should be incorporated in the overall plan of care and reviewed regularly.

(f) Food services, planning and storage.

(1) Menu planning:

(A) Menus shall be written at least one week in advance.

(B) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and adjusted for seasonal changes along with patient's preferences as much as possible.

(C) A different menu shall be followed for each day of the week. If a cycle menu is used, the cycle menu shall cover a minimum of four weeks.

(D) All menus shall be filed and maintained with any recorded changes, for at least three months.

(2) Records of food purchased shall be filed and maintained for at least thirty days.

(3) Storing and handling of food.

(A) All food shall be procured, stored, prepared, distributed, and served under sanitary conditions.
(B) Dry or staple food items shall be stored above the floor in a ventilated room not subject to seepage or waste-water backflow, or contamination by condensation, leakages, rodents, or vermin.

(C) Perishable foods shall be stored at the proper temperatures to conserve nutritive values and prevent spoilage.

4) Food service.

(A) Food shall be served in a form consistent with the needs of the patient and the patient’s ability to consume it.

(B) Food shall be served with the appropriate utensils.

(C) Effective procedures to promptly and consistently clean all equipment and work areas shall be enforced.

(D) All personnel handling food shall be given appropriate personal hygienic instructions at regular intervals and this procedure shall be documented.

(E) Hand washing facilities, including hot and cold water, soap, and paper towels adjacent to the work areas shall be provided.

(F) Individuals needing special equipment, implements, or utensils to assist them when eating shall have such items provided by the facility.

(G) There shall be a sufficient number of competent personnel to fulfill the food and nutrition needs of patients.

(H) If the food service is directed by a person other than a qualified dietitian, there shall be frequent and regularly scheduled consultation by a dietitian or public health nutritionist. This consultation shall be given in the facility at the rate of four hours per every twenty-five patients per month and shall not be less than six hours per month. Consultation, training, and in service education shall be appropriate to staff and patient needs and shall be documented.

(I) Provision may be made for food service by contract with an outside supplier. The method of transport, storage, preparation, and serving of such food as well as the method of providing prompt appropriate replacement foods in therapeutic diets shall be approved by the director prior to initiating such a service.

01. Dietary Supervision. A qualified food service supervisor shall be designated by the administrator to be in charge of the dietary department. This person shall: (1-1-88)

a. Be responsible for orientation, training, scheduling and supervision of dietary employees on all shifts; (1-1-88)

b. Have sufficient knowledge of food needs to plan adequate menus and modified diets for the patients/residents; (1-1-88)

c. Record current dietary information in the patient’s/resident’s care plan and in the medical record. Dietary notes in the medical record shall be made at least quarterly for all patients/residents. Dietary notes shall be made monthly or more often in the medical records of patients/residents with eating problems or who have medical problems relating to diets; (1-1-88)

d. Be encouraged to participate in food service workshops, correspondence courses and other training sessions whenever they are available; (1-1-88)

e. Consult on a regularly scheduled basis with a registered dietitian (or a person with at least a bachelor’s degree in foods and nutrition if no dietitian is available). The dietitian shall: (1-1-88)

i. Assist the person in charge with the development of menus and modified diets as needed; (1-1-88)

ii. Review and approve menu and diet plans; (1-1-88)

iii. Provide in-service training for all food service employees; (1-1-88)

iv. Provide consultation in all areas of food production and service as needed; and (1-1-88)

v. Act as liaison between the medical staff, nursing staff and the dietary department. (1-1-88)

02. Dietary Personnel. There shall be a sufficient number of food service personnel employed, and their hours shall be scheduled to meet the dietary needs of the patients/residents. (1-1-88)

a. The food service department shall be staffed and operated at least twelve (12) hours each day. (1-1-88)

b. Work and duty schedules shall be available in the dietary department for all food service positions. (1-1-88)

c. If food service workers are assigned duties outside of the dietary department, these duties shall not interfere with sanitation, safety or time required for dietary work assignments. (1-1-88)

d. No person who has worked in any other area of the facility shall assist with the preparation or serving of food inside of the kitchen without first putting on a clean uniform or gown and a hairnet or cap. Hands must be thoroughly washed. (1-1-88)
e. Dietary personnel engaged in food preparation shall not feed patients/residents in the dining room. (1-1-88)

03. General Diets. (7-1-93)

a. The general menu shall provide for the food and nutritional needs of the patient/resident in accordance with the Recommended Daily Allowances of the Food and Nutritional Board of the National Research Council. A daily guide for adults shall be based on the following allowances: (1-1-88)

i. Milk - one (1) pint or more, as a beverage or in cooking. Cheese and ice cream may be substituted for part of the milk. (12-31-91)

ii. Meat - four (4) to six (6) ounces (cooked, boneless weight) beef, pork, veal, lamb, fish, poultry, eggs or cheese. Dry beans, nuts or dry peas may be used occasionally as substitutes. (12-31-91)

iii. Fruits and Vegetables - four (4) servings. These shall include a vitamin C-rich fruit or vegetable daily and a vitamin A-rich fruit or vegetable at least every other day. (1-1-88)

iv. Breads and Cereals - four (4) servings of enriched restored or whole-grain breads or cereals. (1-1-88)

v. Other Food - such as fats and sugars shall be provided to round out the meal, to satisfy appetites and to provide sufficient calories. (1-1-88)

b. The evening meal shall include at least one (1) to one and one-half (1-1/2) ounces of a protein food (meat, cheese, fish, eggs), vegetable or fruit, dessert and beverage, preferably milk. (12-31-91)

04. Modified or Therapeutic Diets. All diets, including general diets, shall be ordered by the attending physician. Diet orders shall be kept on file in the health care facility, and modified diets shall be reviewed routinely by the physician along with other treatment. (1-1-88)

a. The charge nurse shall send all diet orders to the dietary department in written form. Any additional diet information or changes in the order shall also be transmitted in writing. (1-1-88)

b. Therapeutic diets shall be planned in accordance with the physician’s order. To the extent that it is medically possible, it shall be planned from the regular menu and shall meet the patient’s/resident’s daily need for nutrients. (1-1-88)

c. A written diet plan shall be made for each type of diet unless each patient’s/resident’s individual diet is written daily. (1-1-88)

d. A current diet manual approved by the Department and the patient’s/resident’s physician shall be available in the kitchen and at each nursing station (the Idaho Diet Manual is approved by the Department). (1-1-88)
05. Menu Planning and Meal Service. At least three (3) meals or their equivalent shall be served daily at regular times, with not more than a fourteen (14) hour span between a substantial evening meal and breakfast. (1-1-88)

a. Bedtime snacks of nourishing quality shall be offered, and between-meal snacks should be offered. (1-1-88)

b. If the “Four or Five-Meal-A-Day” plan is in effect, meals and snacks shall provide nutritional value equivalent to the daily food requirements and the last meal (snack) shall provide at least one (1) ounce of a protein food exclusive of beverage served. (1-1-88)

c. Menus shall be prepared at least a week in advance. Menus shall be corrected to conform with food actually served. (Items not served shall be deleted and food actually served shall be written in.) The corrected copy of the menu and diet plan shall be dated and kept on file for thirty (30) days. (1-1-88)

d. Menus shall provide a sufficient variety of foods in adequate amounts at each meal. Menus shall be different for the same days each week and adjusted for seasonal changes. (1-1-88)

06. Food Purchasing and Storage. Supplies of staple foods for a minimum of a one (1) week period and of perishable foods for a two (2) day period shall be maintained on the premises. (1-1-88)

a. A current file of food purchase invoices shall be kept at least for the preceding thirty (30) day period. (1-1-88)

b. All processed or canned foods shall be obtained from approved commercial sources. (1-1-88)

c. Food from damaged cans or thawed and refrozen foods shall not be used. (1-1-88)

d. All meat and poultry products shall have been inspected for wholesomeness under an official regulatory program. (1-1-88)

e. Only Grade A pasteurized fluid milk and milk products shall be used or served. Dry milk and milk products may be reconstituted in the facility if they are used for cooking purposes only. (1-1-88)

f. All milk for drinking purposes shall be served in a previously unopened, commercially filled container directly into the drinking glass of the patient/resident, or may be drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser directly into the glass of the patient/resident. Any milk held over in an open container from one (1) meal to another shall be used for cooking only. (6-23-89)

g. Each refrigerator and freezer shall be equipped with a reliable, easily read thermometer. Refrigerators shall be maintained at forty-five degrees Fahrenheit (45F) or below. Freezers shall be maintained at zero degrees Fahrenheit (0F) or below. (12-31-91)
h. Storage areas shall be maintained in a clean, orderly manner. No food shall be stored on the floor. (1-1-88)

i. Only food and food service items shall be stored in the food storage areas. (1-1-88)

07. Food Preparation and Service. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance, and shall be attractively served at proper temperatures. (1-1-88)

a. Hazardous foods shall be kept hot (over one hundred forty degrees Fahrenheit (140°F)) or cold (under forty-five degrees Fahrenheit (45°F)) except during actual preparation time. (1-1-88)

b. A file of tested recipes, adjusted to appropriate yield, shall be maintained. (1-1-88)

c. Foods shall be served in a form to meet individual patient’s/resident’s needs: (1-1-88) i. Food shall be cut, ground, or pureed only for those who require it; (1-1-88) ii. Special attention shall be given to the food given patients/residents without dentures, with poor dentures, or with poor teeth because of the difficulty these patients/residents have with mastication. (1-1-88)

d. If a patient/resident refuses the food served, appropriate substitutes shall be offered. (1-1-88)

e. Individual patient/resident trays shall be identified with name, diet order, and room number. (1-1-88)

f. Trays provided bedfast patients/residents shall rest on firm supports, such as overbed tables. Sturdy tray stands of proper height shall be provided patients/residents able to be out of bed. (1-1-88)

g. Tray service shall be attractive and provisions made to serve hot foods hot and cold foods cold. (1-1-88)

h. Trays for patients/residents who need to be fed shall be set up only as there is someone available to do the feeding. (1-1-88)

i. Facilities shall provide one (1) or more attractively furnished multipurpose areas of adequate size for patients’/residents’ dining, diversional, and social activities. (1-1-88)

i. It is recommended that a separate dining room area be provided when possible. (1-1-88)

ii. Dining room areas shall be well lighted, ventilated, and equipped with tables with hard surfaces, and comfortable chairs. The floors in the dining rooms shall be of easily cleanable construction. (1-1-88)

08. Food Sanitation. The acquisition, preparation, storage, and serving of all food and drink in a facility shall comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments". (12-31-91)
a. Ice shall be manufactured from potable water in a sanitary manner, and shall be handled, stored and transported in such a manner as to prevent its contamination. (1-1-88)

b. A separate sink, granular or liquid soap and paper towels shall be provided in the food preparation area for hand washing. Kitchen sinks shall not be used for hand washing. (1-1-88)

c. Written reports of food service inspections by authorized representatives of district health departments or the Department shall be maintained on file at the facility. Corrections and changes which have been implemented by the facility as a result of such inspections shall be recorded in writing and kept on file. (1-1-88)

d. Adequate facilities, equipment, and utensils shall be provided for the preparation, storage, and serving of food and drink to the patients/residents and personnel. (1-1-88)

ILLINOIS

Section 300.662 Resident Attendants

a) As used in this Section, "resident attendant" means an individual who assists residents in a facility with the following activities:

1) eating and drinking...

...h) A facility may not use on a full-time or other paid basis any individual as a resident attendant in the facility unless the individual:

1) has completed a Department-approved training and competency evaluation program encompassing the tasks the individual provides; and

2) is competent to provide feeding, hydration, and personal hygiene services. (Section 3-206.03(c) of the Act) The individual shall be deemed to be competent if he/she is able to perform a hands-on return demonstration of the required skills, as determined by a nurse.

i) The facility shall maintain documentation of completion of the training program and determination of competency for each person employed as a resident attendant.

j) A facility-based training and competency evaluation program shall be conducted by a nurse and/or dietician and shall include one or more of the following units:

1) A feeding unit that is at least five hours in length and that is specific to the needs of the residents, and that includes the anatomy of digestion and swallowing; feeding techniques;
developing an awareness of eating limitations; potential feeding problems and complications; resident identification; necessary equipment and materials; resident privacy; hand washing; use of disposable gloves; verbal and nonverbal communication skills; behavioral issues and management techniques; signs of choking; signs and symptoms of aspiration; and Heimlich maneuver;

2) A hydration unit that is at least three hours in length and that includes the anatomy of digestion and swallowing; hydration technique; resident identification; necessary equipment and materials; potential hydration problems and complications; verbal and nonverbal communication skills; behavioral issues and management techniques; use of disposable gloves; signs of choking; signs and symptoms of aspiration; hand washing; and resident privacy;

3) A personal hygiene unit that is at least five hours in length and includes oral hygiene technique, denture care; potential oral hygiene problems and complications; resident identification; verbal and nonverbal communication skills; behavioral issues and management techniques; resident privacy; hand washing; use of disposable gloves; hair combing and brushing; face and hand washing technique; necessary equipment and materials; shaving technique. (Section 3-206.03(d) of the Act)

k) All training shall also include a unit in safety and resident rights that is at least five hours in length and that includes resident rights; fire safety, use of a fire extinguisher, evacuation procedures; emergency and disaster preparedness; infection control; and use of the call system.

l) Each resident attendant shall be given instruction by a nurse or dietician concerning the specific feeding, hydration, and/or personal hygiene care needs of the resident whom he or she will be assigned to assist.

m) Training programs shall be reviewed and approved by the Department every two years. (Section 3-206.03(d) of the Act)

n) Training programs shall not be implemented prior to initial Department approval.

o) Application for initial approval of facility-based and non-facility-based training programs shall be in writing and shall include:

1) An outline containing the methodology, content, and objectives for the training program. The outline shall address the curriculum requirements set forth in subsection (h) of this Section for each unit included in the program;

2) A schedule for the training program;

3) Resumes describing the education, experience, and qualifications of each program instructor, including a copy of any valid Illinois licenses, as applicable; and

4) A copy or description of the tools that will be used to evaluate competency.
p) The Department will evaluate the initial application and proposed program for conformance to the program requirements contained in this Section. Based on this review, the Department will:

1) Grant approval of the proposed program for a period of two years;

2) Grant approval of the proposed program contingent on the receipt of additional materials, or revision, needed to remedy any minor deficiencies in the application or proposed program, which would not prevent the program from being implemented, such as deficiencies in the number of hours assigned to cover different areas of content, which can be corrected by submitting a revised schedule or outline; or

3) Deny approval of the proposed program based on major deficiencies in the application or proposed program that would prevent the program from being implemented, such as deficiencies in the qualifications of instructors or missing areas of content.

q) Programs shall be resubmitted to the Department for review within 60 days prior to expiration of program approval.

r) If the Department finds that an approved program does not comply with the requirements of this Section, the Department will notify the facility in writing of non-compliance of the program and the reason for the finding.

s) If the Department finds that any conditions stated in the written notice of non-compliance issued under subsection (r) of this Section have not been corrected within 30 days after the date of issuance of such notice, the Department will revoke its approval of the program.

t) Any change in program content or objectives shall be submitted to the Department at least 30 days prior to program delivery. The Department will review the proposed change based on the requirements of this Section and will either approve or disapprove the change. The Department will notify the facility in writing of the approval or disapproval.

u) A person seeking employment as a resident attendant is subject to the Health Care Worker Background Check Act (Section 3-206.03(f) of the Act) and Section 300.661 of this Part.

(Source: Added at 24 Ill. Reg. 17330, effective November 1, 2000)

Section 300.830 Consultation Services

...i) Facilities shall arrange for a dietary consultant as set forth in Section 300.2010(b).

Section 300.2010 Director of Food Services
a) A full-time person, qualified by training and experience, shall be responsible for the total food and nutrition services of the facility. This person shall be on duty a minimum of 40 hours each week.

1) This person shall be either a dietitian or a dietetic service supervisor.

2) The person responsible for the food service may assume some cooking duties but only if these duties do not interfere with the responsibilities of management and supervision.

b) If the person responsible for food service is not a dietitian, the person shall have frequent and regularly scheduled consultation from a dietitian. Consultation, given in the facility, shall include training, as needed, in areas such as menu planning and review, food preparation, food storage, food service, safety, food sanitation, and use of food equipment. Clinical management of therapeutic diets shall also be included in consulting, covering areas such as tube feeding; nutritional status and requirements of residents, including weight, height, hematologic and biochemical assessments; physical limitations; adaptive eating equipment; and clinical observations of nutrition, nutritional intake, resident's eating habits and preferences, and dietary restrictions.

1) Intermediate care facilities: A minimum of eight hours of consulting time per month shall be provided for facilities with 50 or fewer residents. An additional four minutes of consulting time per month shall be provided per resident over 50 residents, based on the average daily census for the previous year.

2) Skilled nursing facilities: A minimum of eight hours of consulting time per month shall be provided for facilities with 50 or fewer residents. An additional five minutes of consulting time per month shall be provided per resident over 50 residents, based on the average daily census for the previous year.

(Source: Amended at 23 Ill. Reg. 8106, effective July 15, 1999)

Section 300.2020 Dietary Staff in Addition to Director of Food Services

There shall be sufficient number of food service personnel employed and on duty to meet the dietary needs of all persons eating meals in the facility. Their working hours shall be scheduled to meet the total dietary needs of the residents. All dietary employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be available in the dietary department for employees' knowledge and use.

(B)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.2030 Hygiene of Dietary Staff

Food service personnel shall be in good health, shall practice hygienic food handling techniques, and good personal grooming. (B)
Section 300.2040  Diet Orders

a) Two or more copies of a current diet manual shall be available and in use. One copy shall be located in the kitchen for use by dietary personnel. Other copies shall be located at each nurses’ station for use by physicians when prescribing diets.

b) Physicians shall write a diet order, in the medical record, for each resident indicating whether the resident is to have a general or a therapeutic diet. The diet shall be served as ordered.

c) A written diet order shall be sent to the food service department when each resident is admitted and each time that the resident’s diet is changed. Each change shall be ordered by the physician. The diet order shall include, at a minimum, the following information: name of resident, room and bed number, type of diet, consistency if other than regular consistency, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department.

d) The resident shall be observed to determine acceptance of the diet, and these observations shall be recorded in the medical record.

e) A therapeutic diet means a diet ordered by the physician as part of a treatment for a disease or clinical condition, to eliminate or decrease certain substances in the diet (e.g., sodium) or to increase certain substances in the diet (e.g., potassium), or to provide food in a form that the resident is able to eat (e.g., mechanically altered diet).

f) All therapeutic diets shall be medically prescribed and shall be planned or approved by a dietitian.

g) The kinds and variations of prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type, in a form easily understood by staff, shall be available in a convenient location in the kitchen.

h) All oral liquid diets shall be reviewed every 48 hours. Medical soft diets, sometimes known as transitional diets, shall be reviewed every three weeks. All other therapeutic and mechanically altered diets, including commercially prepared formulas that are in liquid form and blenderized liquid diets, shall be reviewed as needed, or at least every three months.

(Source: Amended at 23 Ill. Reg. 8106, effective July 15, 1999)

Section 300.2050  Meal Planning

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)
Each resident shall be served food to meet the resident’s needs and to meet physician’s orders. The facility shall use this Section to plan menus and purchase food in accordance with the following Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

a) Milk and Milk Products Group: 16 ounces or more of Grade A whole or low fat pasteurized milk where milk is used for fluid consumption. Calcium equivalents for eight ounces of milk:

1) 1½ ounces natural cheese,
2) Two ounces processed cheese,
3) One cup yogurt, or one cup frozen yogurt,
4) One cup cottage cheese, or
5) 1½ cups ice cream or ice milk.

b) Meat Group: A total of 6 ounces (by weight) of good quality protein to provide 38 to 42 grams of protein daily. To ensure variety, food items repeated within the same day shall not be counted as meeting a required serving. The following are examples of one serving.

1) Three ounces (excluding bone, fat and breading) of any cooked meat such as whole or ground beef, veal, pork or lamb; poultry; organ meats such as liver, heart, kidney; prepared luncheon meats.
2) Three ounces (excluding skin and breading) of cooked fish or shell fish or ½ cup canned fish.
3) Three ounces of natural or processed cheese or ¾ cup cottage cheese.
4) Three eggs (minimum weight 21 ounces per dozen, considered a medium egg).

Note: If one egg is served at a meal, a protein food of good quality may be reduced from six to five ounces for the remaining meals. If two eggs are served at a meal, a minimum of two ounces of good quality protein shall be served at each of the remaining meals.

5) 1½ cups cooked dried peas or beans, six tablespoons of peanut butter, or one cup nuts, not more than twice a week and provided that eggs, milk or lean meat is served at the same meal.

6) Three ounces of soy protein containing not less than 21 grams of protein or in combination with other sources of quality protein to equal 21 grams of protein, provided that it is acceptable to the resident population.

7) Combinations of all above examples are acceptable, provided that the minimum standard of six ounces of a good quality protein food is served daily and provided that the combinations do not conflict with eye appeal or palatability.

8) The content of meat alternative products shall be listed on the menu.
c) Vegetable and Fruit Group: Five or more servings of fruits or vegetables.

1) A serving consists of:

A) ½ cup chopped raw, cooked, canned or frozen fruit or vegetables;

B) ¾ cup fruit or vegetable juice; or

C) One cup raw leafy vegetable.

2) The five or more servings shall consist of:

A) Sources of vitamin C

i) One serving of a good source of vitamin C (containing at least 60 mg of vitamin C); or

ii) Two servings of a fair source of vitamin C. This may be more than one food item and shall contain a total of at least 65 mg of vitamin C.

B) One serving of a good source of vitamin A at least three times a week supplying at least 1000 micrograms retinol equivalent (RE) of vitamin A.

C) Other fruits and vegetables, including potatoes, that may be served in ⅓ cup or larger portions.

3) To ensure variety, food items repeated within the same day shall not be counted as meeting a required serving.

d) Bread, Cereal, Rice and Pasta Group: Six or more servings of whole grain, enriched or restored products. One serving equals:

1) One slice of bread,

2) ½ cup of cooked cereal, rice, pasta, noodles, or grain product,

3) ¾ cup of dry, ready-to-eat cereal,

4) ½ hamburger or hotdog bun, bagel or English muffin,

5) One 4-inch diameter pancake,

6) One tortilla,

7) Three to four plain crackers (small),

8) ½ croissant (large), doughnut or Danish (medium),

9) 1/16 cake,

10) Two cookies, or

11) 1/12 pie (2-crust, 8").
e) Butter or Margarine: To be used as a spread and in cooking.

f) Other foods shall be served to round out meals, satisfy individual appetites, improve flavor, and meet the individual's nutritional and caloric needs.

g) Meals for the day shall be planned to provide a variety of foods, variety in texture and good color balance. The following meal patterns shall be used.

1) Three meals a day plan:

A) Breakfast: Fruit or juice, cereal, meat (optional, but three to four times per week preferable), bread, butter or margarine, milk, and choice of additional beverage.

B) Main Meal (may be served noon or evening): Soup or juice (optional), entree (quality protein), potato or potato substitute, vegetable or salad, dessert (preferably fruit unless fruit is served as a salad or will be served at another meal), bread, butter or margarine, and choice of beverage.

C) Lunch or Supper: Soup or juice (optional), entree (quality protein), potato or potato substitute (optional if served at main meal), vegetable or salad, dessert, bread, butter or margarine, milk, and choice of additional beverage.

2) Other meal patterns may be used if facilities are able to meet residents' needs using such plans.

(Source: Amended at 23 Ill. Reg. 8106, effective July 15, 1999)

Section 300.2070 Scheduling Meals

a) A minimum of three meals or their equivalent shall be served daily at regular times with no more than a 14 hour span between a substantial evening meal and breakfast. The 14 hour span shall not apply to facilities using the "four or five meal-a-day" plan, provided the evening meal is substantial and includes, but is not limited to, a good quality protein, bread or bread substitute, butter or margarine, a dessert and a nourishing beverage.

b) Bedtime snacks of nourishing quality shall be offered. Snacks of nourishing quality shall be offered between meals when there is a time span of four or more hours between the ending of one meal and the serving of the next, or as otherwise indicated in the resident’s plan of care.

c) If a resident refuses food served, reasonable and nutritionally appropriate substitutes shall be served.

(Source: Amended at 16 Ill. Reg. 17089, effective November 3, 1992)
Section 300.2080 Menus and Food Records

a) Menus, including menus for "sack" lunches and between meal or bedtime snacks, shall be planned at least one week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook marked "Substitutions", that is kept in the kitchen. If a notebook is used to document substitutions, it shall include the date of the substitution; the meal at which the substitution was made; the menu as originally written; and the menu as actually served.

b) The menu for the current week shall be dated and available in the kitchen. Upon the request of the Department, sample menus shall be submitted for evaluation.

c) Menus shall be different for the same day of consecutive weeks and adjusted for seasonal differences.

d) All menus as actually served shall be kept on file at the facility for not less than 30 days.

e) Food label information for purchased prepared food listing food composition and, when available, nutrient content shall be kept on file in the facility for the current menu cycle.

f) Supplies of staple foods for a minimum of a one week period and of perishable foods for a minimum of a two day period shall be maintained on the premises. These supplies shall be appropriate to meet the requirements of the menu.

g) Records of all food purchased shall be kept on file for not less than 30 days.

(Source: Amended at 23 Ill. Reg. 8106, effective July 15, 1999)

Section 300.2090 Food Preparation and Service

a) Foods shall be prepared by appropriate methods that will conserve their nutritive value, enhance their flavor and appearance. They shall be prepared according to standardized recipes and a file of such recipes shall be available for the cook’s use.

b) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs. (B)

c) All residents shall be served in a dining room or multi-purpose room except for an individual with a temporary illness, who is too ill, or for other valid reasons.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.2100 Food Handling Sanitation
Every facility shall comply with the Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750).

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.2110  Kitchen Equipment, Utensils, and Supplies

Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal.

(Source: Amended at 14 Ill. Reg. 14950, effective October 1, 1990)

Indiana

410 IAC 16.2-3.1-20 Dietary services

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1; IC 25-14.5

Sec. 20.

(a) The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(b) The facility must employ a qualified dietitian either full time, part time, or on a consultant basis.

(c) If a qualified dietitian is not employed full time, the facility must designate a qualified person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

(d) A qualified dietitian is one who is certified under IC 25-14.5. However, a person employed by a health facility as of July 1, 1984, must:

(1) have a bachelor's degree with major studies in food management;

(2) have one (1) year of supervisory experience in the dietetic service of a health care institution; and

(3) participate annually in continuing dietetic education.

(e) The food service director must be one (1) of the following:
(1) A qualified dietitian.

(2) A graduate or student enrolled in and within one (1) year from completing a division approved, minimum ninety (90) hour classroom instruction course that provides classroom instruction in food service supervision who has a minimum of one (1) year experience in some aspect of institutional food service management.

(3) A graduate of a dietetic technician program approved by the American Dietetic Association.

(4) A graduate of an accredited college or university with a degree in foods and nutrition or food administration with a minimum of one (1) year experience in some aspect of food service management.

(5) An individual with training and experience in food service supervision and management in a military service equivalent in content to the program in subdivisions (2), (3), and (4).

(f) The number of consultant dietitian hours shall be commensurate with number of residents, complexity of resident services, and qualifications of food service director with at least the following number of hours being provided:

(1) Four (4) hours every two (2) weeks for a facility of sixty (60) residents or less.

(2) Five (5) hours every two (2) weeks for a facility of sixty-one (61) to ninety (90) residents.  (3) Six (6) hours every two (2) weeks for a facility of ninety-one (91) to one hundred twenty (120) residents. (4) Seven (7) hours every two (2) weeks for a facility of one hundred twenty-one (121) to one hundred fifty (150) residents. (5) Eight (8) hours every two (2) weeks for a facility of one hundred fifty-one (151) residents or more.

(g) Sufficient consultant hours shall be provided to allow the dietitian to correlate and integrate the nutritional aspects of resident care services by directing the following functions:

(1) Reviewing the resident's medical history, the comprehensive assessment, and assessing the resident's nutritional status.

(2) Interviewing and counseling the resident.

(3) Recording pertinent resident information on the record.

(4) Developing nutritional care goals.

(5) Conferring in interdisciplinary care planning.

(6) Sharing specialized knowledge with other members of the resident care team.
(7) Developing the regular diets to meet the specialized needs of residents.

(8) Developing therapeutic diets.

(9) Monitoring institutional food preparation and service.

(h) A facility must employ sufficient support personnel competent to carry out the functions of the dietary service.

(i) Menus must:

(1) meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(2) be prepared in advance;

(3) be approved by a qualified dietitian; and

(4) be followed.

(j) A current diet manual shall be available.

(k) The regular menu for the facility must be posted or made available to the residents.

(l) For purposes of IC 16-28-5-1, a breach of:

(1) subsection (a) is a deficiency; and

(2) subsection (b), (c), (d), (e), (f), (g), (h), (i), (j), or (k) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-20; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1546, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234) 410

IAC 16.2-3.1-21 Food

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1

Sec. 21.

(a) Each resident receives and the facility provides the following:

(1) Food prepared by methods that conserve nutritive value, flavor, and appearance.

(2) Food that is palatable, attractive, and at the proper temperature.

(3) Food prepared in a form designed to meet individual needs.

(4) Substitutes offered of similar nutritive value to residents who refuse food served.
(b) Therapeutic diets must be prescribed by the attending physician.

(c) Each resident receives and the facility provides at least three (3) meals daily, at regular times comparable to normal mealtimes in the community.

(d) There must be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in subsection (f).

(e) The facility must offer snacks at bedtime daily.

(f) When a nourishing snack is provided at bedtime, up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span and a nourishing snack is served. A nourishing snack is an offering of a minimum of a food item and a beverage.

(g) If a clear liquid diet is prescribed, the order shall be confirmed with the physician every forty-eight (48) hours, if it is the only source of nutrition unless a different time is specified in the physician's order.

(h) The facility must provide special eating equipment and utensils for residents who need them.

(i) The facility must do the following:

1) Procure food from sources approved or considered satisfactory by federal, state, or local authorities.

2) Comply with 410 IAC 7-24.

3) Store, prepare, distribute, and serve food under sanitary conditions.

4) Provide available storage space in a room adjacent to or convenient to the kitchen for at least a three (3) day supply of staple food both for normal and emergency needs in keeping dietary standards.

5) Dispose of garbage and refuse properly.

(j) Any contracted food service to a facility must comply with all rules pertaining to dietary services.

(k) For purposes of IC 16-28-5-1, a breach of:

1) subsection (b), (g), (h), (i)(2), or (i)(3) is a deficiency; and

2) subsection (a), (c), (d), (e), (f), (i)(1), (i)(4), (i)(5), or (j) is a noncompliance.
410 IAC 16.2-3.1-53 Dining assistants

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1; IC 16-28-13-3; IC 25-23-1-1

Sec. 53. (a) Each dining assistant shall successfully complete a sixteen (16) hour training program for dining assistants that has been approved by the department.

(b) A dining assistant training program must obtain approval from the department prior to providing instruction to individuals.

(c) The facility shall do the following:

(1) Ensure that resident selection for dining assistance is based on the charge nurse's assessment and the resident's most recent assessment and plan of care.

(2) Not allow the dining assistant to assist more than two (2) residents at any one (1) time.

(3) Ensure the dining assistant is oriented to the following:

(A) The resident's diet, likes, and dislikes.

(B) Feeding techniques appropriate to the individual resident.

(4) Document the use of a dining assistant on the resident's care plan and review at each care plan conference.

(5) Check the nurse aide registry prior to training an individual as a dining assistant.

(6) Use only individuals as dining assistants who have successfully completed a department-approved training program for dining assistants.

(d) The scope of practice for dining assistants is as follows:

(1) A dining assistant shall work under the supervision of a licensed nurse who is on the unit or floor where the dining assistance is furnished and is immediately available to provide assistance as needed.

(2) In an emergency, a dining assistant shall call the supervising nurse using the resident call system or any other method available.

(3) A dining assistant shall assist only residents who do not have complicated eating problems, which include, but are not limited to, the following:

(A) Difficulty swallowing.

(B) Recurrent lung aspirations.

(C) Tube or parenteral/IV feedings.
(e) The dining assistant training program shall consist of, but is not limited to, the following:

(1) Eight (8) hours of classroom instruction prior to any direct contact with a resident that includes the following:

(A) Feeding techniques.
(B) Regular and special diets.
(C) Reporting food and fluid intake.
(D) Assistance with feeding and hydration.
(E) Communication and interpersonal skills.
(F) Infection control.
(G) Safety/emergency procedures including the Heimlich maneuver.
(H) Promoting residents' independence.
(I) Abuse, neglect, and misappropriation of property.
(J) Nutrition and hydration.
(K) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting these changes to the supervising nurse.
(L) Mental health and social service needs including how to respond to a resident's behavior.

(M) Residents' rights including the following:
(i) Privacy.
(ii) Confidentiality.
(iii) Promoting residents' right to make personal choices to accommodate their needs.
(iv) Maintaining care and security of residents' personal possessions.
(v) Dignity.

(2) Eight (8) hours of clinical instruction that consists of, but is not limited to, the following:

(A) Feeding techniques.
(B) Assistance with eating and hydration.

(f) The dining assistant training program and training facility, if applicable, must ensure that clinical instruction provides for the direct supervision of the dining assistant by a licensed nurse.
(g) Each training program shall have a qualified instructor responsible for program oversight who at a minimum:

(1) possesses a valid Indiana registered nurse license under IC 25-23-1-1;

(2) possesses two (2) years of licensed nursing experience, of which at least one (1) year of experience is in the provision of long term care services; and

(3) completed a department-approved training program.

(h) An approved program director of a department nurse aide training program constitutes a qualified instructor under subsection (g) and may conduct dining assistant training without additional training.

(i) Dining assistant training may only be provided by:

(1) a registered nurse;

(2) a licensed practical nurse;

(3) a qualified dietician;

(4) an occupational therapist; or

(5) a speech-language pathologist. Certified nurse aide and qualified medication aide personnel shall not participate in or provide any dining assistant training.

(j) In order to issue a certificate or letter of completion to the dining assistant, the dining assistant training program shall ensure that the dining assistant demonstrates competency in all areas of instruction using a checklist approved by the department.

(k) Each approved program shall maintain a student file that:

(1) is retained for a minimum of three (3) years; and

(2) contains:

(A) individualized documentation of the:

(i) classroom training that includes dates of attendance and areas of instruction; and

(ii) clinical instruction that includes dates of attendance and areas of instruction including procedures and activities completed during the clinical experience; and

(B) a copy of the certificate or letter confirming successful completion of the dining assistant training program, which shall be signed and dated by the instructor and bear the name and address of the training program.

(l) The department may revoke an approved dining assistant training program if evidence exists that the program has not been administered in accordance with this section.

(m) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b), (c), (d), (e), (f), (g), or (j) is a deficiency;

(2) subsection (h) or (i) is a noncompliance; and

(3) subsection (k) is a nonconformance. (Indiana State Department of Health; 410 IAC 16.2-3.1-53; filed Aug 11, 2004, 11:00 a.m.: 28 IR 192; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

IOWA

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481—58.24(135C) Dietary.

58.24(1) Organization of dietetic service department. The facility shall meet the needs of the residents and provide the services listed in this standard. If the service is contracted out, the contractor shall meet all the standards. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for the dietetic service department that include staffing, nutrition, menu planning, therapeutic diets, preparation, service, ordering, receiving, storage, sanitation, and hygiene of staff. The policies and procedures shall be kept in a notebook and made available for use in the dietetic service department. (III)

b. There shall be written job descriptions for each position in the dietetic service department. The job descriptions shall be posted or kept in a notebook and made available for use in the dietetic service department. (III)

58.24(2) Dietary staffing.

a. The facility shall employ a qualified dietary supervisor who:

(1) Is a qualified dietitian as defined in 58.24(2)"e"; or

(2) Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or

(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Dietary Managers Association (DMA) and maintains that credential through 45 hours of DMA-approved continuing education; or

(4) Has completed a DMA-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or
(5) Has documented evidence of at least two years’ satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 12 months of the date of enrollment; or

(6) Has completed or is in the final 90-hour training course approved by the department. (II, III)

b. The supervisor shall have overall supervisory responsibility for the dietetic service department and shall be employed for a sufficient number of hours to complete management responsibilities that include:

(1) Participating in regular conferences with consultant dietitian, administrator and other department heads; (III)

(2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)

(3) Establishing and maintaining standards for food preparation and service; (II, III)

(4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)

(5) Supervising activities of dietary personnel; (II, III)

(6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)

(7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)

(8) Keeping records of repairs of equipment in the dietetic service department. (III)

c. The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)

(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described elsewhere; (II, III)

(3) Serving of therapeutic diets as prescribed by the physician and following the planned menu. (II, III)

d. The facility shall not assign personnel duties simultaneously in the kitchen and laundry, housekeeping, or nursing service except in an emergency situation. If such a situation occurs, proper sanitary and personal hygiene procedure shall be followed as outlined under the rules pertaining to hygiene of staff. (II, III)
e. If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.

f. Consultants’ visits shall be scheduled to be of sufficient duration and at a time convenient to:

1. Record, in the resident’s medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)

2. Work with nursing staff on resident care plans; (III)

3. Consult with the administrator and others on developing and implementing policies and procedures; (III)

4. Write or approve general and therapeutic menus; (III)

5. Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)

6. Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

g. In facilities licensed for more than 15 beds, food service personnel shall be on duty for a minimum of a 12-hour span extending from the preparation of breakfast through supper. (III)

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of each resident in accordance with the physician’s orders. (II, III)

b. Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual published by Blackwell Publishing, Ames, Iowa, shall be available and used in the planning and serving of all meals. (II)

c. At least three meals or their equivalent shall be served daily, at regular hours comparable to normal mealtimes in the community. (II)

1. There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)

2. The facility shall offer snacks at bedtime daily. (II, III)

3. When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)
d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by department personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

h. Alternate foods shall be offered to residents who refuse the food served. (II, III)

58.24(4) Therapeutic diets.

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual shall be readily available to attending physicians, nurses and dietetic service personnel. This manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (III)

b. Personnel responsible for planning, preparing and serving therapeutic diets shall receive instructions on those diets. (III)

58.24(5) Food preparation and service.

a. Methods used to prepare foods shall be those which conserve nutritive value and flavor and meet the taste preferences of the residents. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut up, chopped, ground or blended to meet individual needs. (II, III)

d. Self-help devices shall be provided as needed. (II, III)

e. Table service shall be attractive. (II, III)

f. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (III)

g. All food that is transported through public corridors shall be covered. (III)

h. All potentially hazardous food or beverages capable of supporting rapid and progressive growth of microorganisms that can cause food infections or food intoxication shall be
maintained at temperatures of 41°F or below or at 140°F or above at all times, except during necessary periods of preparation. Frozen food shall be maintained frozen. (I, II, III)

i. Potentially hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds. (I, II, III)

j. Food must be reheated to 165°F within no more than two hours after the heating process begins. (I, II, III)

k. Cooked potentially hazardous food shall be cooled:

(1) Within two hours, from 140°F to 70°F; and

(2) Within four hours, from 70°F to 41°F or less. (I, II, III)

58.24(6) Dietary ordering, receiving, and storage.

a. All food and beverages shall be of wholesome quality and procured from sources approved or considered satisfactory by federal, state and local authorities. Food or beverages from unlabeled, rusty, leaking, broken or damaged containers shall not be served. (I, II, III)

b. A minimum of at least a one-week supply of staple foods and a three-day supply of perishable foods shall be maintained on the premises to meet the planned menu needs until the next food delivery. Supplies shall be appropriate to meet the requirements of the menu. (III)

c. All milk shall be pasteurized. (III)

d. Milk may be served in individual, single-use containers. Milk may be served from refrigerated bulk milk dispensers or from the original container. Milk served from a refrigerated bulk milk dispenser shall be dispensed directly into the glass or other container from which the resident drinks. (II, III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple items shall be stored at least six inches (15 cm) above the floor in a ventilated room, not subject to sewage or wastewater backflow, and protected from condensation, leakage, rodents or vermin in accordance with the Food Code, 1999 edition. (III)

g. Pesticides, other toxic substances and drugs shall not be stored in the food preparation or storage areas used for food or food preparation equipment and utensils. Soaps, detergents, cleaning compounds or similar substances shall not be stored in food storage rooms or areas. (II)

h. Food storage areas shall be clean at all times. (III)
i. There shall be a reliable thermometer in each refrigerator, freezer and in storerooms used for food. (III)

j. Foods held in refrigerated or other storage areas shall be appropriately covered. Food that was prepared and not served shall be stored appropriately, clearly identifiable and dated. (III)

58.24(7) Sanitation in food preparation area.

a. Unless otherwise indicated in this chapter or 481—Chapter 61, the sanitary provisions as indicated in Chapters 3, 4 and 7 of the 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204, shall apply.

b. Residents shall not be allowed in the food preparation area. (III)

c. The food preparation area shall not be used as a dining area for residents, staff or food service personnel. (III)

d. All food service areas shall be kept clean, free from litter and rubbish, and protected from rodents, animals, roaches, flies and other insects. (II, III)

e. All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair, and shall be free from breaks, corrosion, cracks and chipped areas. (II, III)

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f. There shall be effective written procedures established for cleaning all work and serving areas. (III)

g. A schedule of cleaning duties to be performed daily shall be posted. (III)

h. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)

i. Spillage and breakage shall be cleaned up immediately and disposed of in a sanitary manner. (III)

j. Wastes from the food service that are not disposed of by mechanical means shall be kept in leak-proof, nonabsorbent, tightly closed containers when not in immediate use and shall be disposed of frequently. (III)

k. The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

l. The walls, ceilings and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. Walls and floors in wet areas should be moisture-resistant. (III)
m. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

n. There shall be no animals or birds in the food preparation area. (III)

o. All utensils used for eating, drinking, and preparing and serving food and drink shall be cleaned and disinfected or discarded after each use. (III)

p. If utensils are washed and rinsed in an automatic dish-machine, one of the following methods shall be used:

(1) When a conventional dish-machine is utilized, the utensils shall be washed in a minimum of 140 F using soap or detergent and sanitized in a hot water rinse of not less than 170 F. (II, III)

(2) When a chemical dish-machine is utilized, the utensils shall be washed in a minimum of 120 F using soap or detergent and sanitized using a chemical sanitizer that is automatically dispensed by the machine and is in a concentration equivalent to 50 parts per million (ppm) available chloride. (II, III)

q. If utensils are washed and rinsed in a three-compartment sink, the utensils shall be thoroughly washed in hot water at a minimum temperature of 110 F using soap or detergent, rinsed in hot water to remove soap or detergent, and sanitized by one of the following methods:

(1) Immersion for at least 30 seconds in clean water at 180 F; (II, III)

(2) Immersion in water containing bactericidal chemical at a minimum concentration as recommended by the manufacturer. (II, III)

r. After sanitation, the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used. (III)

s. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without first washing their hands. (III)

t. A mop and mop pail shall be provided for exclusive use in kitchen and food storage areas. (III)

58.24(8) Hygiene of food service personnel.

a. Personnel, if involved in dietetic services, shall be trained in basic food sanitation techniques, shall be clean and wear clean clothing, including a cap or a hairnet sufficient to contain, cover and restrain hair. Beards, mustaches and sideburns that are not closely cropped and neatly trimmed shall be covered. (III)
b. Personnel shall be excluded from duty when affected by skin infections or communicable diseases in accordance with the facility’s infection control policies. (II, III)

c. Employee street clothing stored in the food service area shall be in a closed area. (III)

d. Food preparation sinks shall not be used for hand washing. Separate hand-washing facilities with soap, hot and cold running water, and single-use towels shall be used properly. (II, III)

e. Persons other than food service personnel shall not be allowed in the food preparation area unless required to do so in the performance of their duties. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

58.24(9) Paid nutritional assistants.

A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

a. Training program requirements.

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas

1. Feeding techniques.

2. Assistance with feeding and hydration.

3. Communication and interpersonal skills.

4. Appropriate responses to resident behavior.

5. Safety and emergency procedures, including the Heimlich maneuver.

6. Infection control.

7. Resident rights.

8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

(2) In addition to the training program requirements specified above, the training program must include at least four hours of classroom study, two hours of supervised laboratory work, and two hours of supervised clinical experience.
(3) A facility that offers a paid nutritional assistant training program must provide sufficient supplies in order to teach the objectives of the course.

(4) All paid nutritional assistant training program instructors shall be registered nurses. Other qualified health care professionals may assist the instructor in teaching the classroom portion and clinical or laboratory experiences. The ratio of students to instructor shall not exceed ten students per instructor in the clinical setting.

(5) Each individual enrolled in a paid nutritional assistant training program shall complete a 50-question multiple choice written test and must obtain a score of 80 percent or higher. In addition, the individual must successfully perform the feeding of a resident in a clinical setting. A registered nurse shall conduct the final competency determination.

(6) If an individual does not pass either the written test or competency demonstration, the individual may retest the failed portion a second time. If the individual does not pass either the written test or competency demonstration portion the second time, the individual shall not be allowed to retest.

b. Program approval. A facility or other entity may not offer or teach a paid nutritional assistant training program until the department has approved the program. Individuals trained in a program not approved by the department will not be allowed to function as paid nutritional assistants.

(1) A facility or other institution offering a paid nutritional assistant training program must provide the following information about the training program to the department before offering the program or teaching paid nutritional assistants:

1. Policies and procedures for program administration.

2. Qualifications of the instructors.

3. Maintenance of program records, including attendance records.


5. Program costs and refund policies.

6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

(2) The facility or other institution offering a paid nutritional assistant training program must submit the materials specified above for department review. The department shall, within ten days of receipt of the material, advise the facility or institution whether the program is approved, or request additional information to assist the department in determining whether the curriculum meets the requirements for a paid nutritional assistant training program. Before approving any paid nutritional assistant training program, the department shall determine whether the curriculum meets the requirements specified in this sub-rule. The department shall maintain a list of facilities and institutions eligible to provide paid nutritional assistant training. (I, II, III)
(3) A facility shall maintain a record of all individuals who have successfully completed the required training program and are used by the facility as paid nutritional assistants. The individual shall complete the training program with a demonstration of knowledge and competency skills necessary to serve as a paid nutritional assistant. (I, II, III)

(4) Upon successful completion of the training program, the facility or other institution providing the training shall, within ten calendar days, provide the individual with a signed and dated certificate of completion. A facility that employs paid nutritional assistants shall maintain on file copies of the completed certificate and skills checklist for each individual who has successfully completed the training program. (I, II, III)

c. Working restrictions.

(1) A paid nutritional assistant must work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid nutritional assistant must call a supervisory nurse for help on the resident call system. (I, II, III)

(2) A facility must ensure that a paid nutritional assistant feeds only residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube, parenteral or intravenous feedings. The facility must base resident selection on the charge nurse’s assessment and the resident’s latest assessment and plan of care. (I, II, III)

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**KANSAS**

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39-923. Definitions

“Dietetic Services Supervisor” means an individual who meets one of the following requirements:

1) Is licensed in the state of Kansas as a dietitian.

2) has an associate’s degree in dietetic technology from a program approved by the American dietetic association.

3) has a certificate from a dietary managers’ training program approved by the dietary managers’ association; or

4) has training and experience in dietetic services supervision and management that are determined by the secretary of health and environment to be equivalent in content to the program in paragraphs (2) and (3) of this subsection.
“Dietitian” means an individual who is licensed by the Kansas department of health and environment as a dietitian.

"Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, which is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. 483.152, 42 C.F.R. 483.160 and paragraph (h) of 42 C.F.R. 483.35, in effect on October 27, 2003, and who provides such assistance under the supervision of a registered professional or licensed practical nurse


The following definitions shall apply to all adult care homes except nursing facilities for mental health and intermediate care facilities for the mentally retarded.

(tt) Paid nutrition assistant” has the meaning specified in K.S.A. 39-923, and amendments thereto. In addition, each paid nutrition assistant shall meet the following requirements:

(1) Have successfully completed a nutrition assistant course approved by the Kansas department of health and environment;

(2) provide assistance with eating to residents of an adult care home based on an assessment by the supervising licensed nurse, the resident’s most recent minimum data set assessment or functional capacity screening, and the resident’s current care plan or negotiated service agreement;

(3) provide assistance with eating to residents who do not have complicated feeding problems;

(4) be supervised by a licensed nurse on duty in the facility; and

(5) contact the supervising licensed nurse verbally or on the resident call system for help in case of an emergency.


The following material shall apply to all adult care homes except nursing facilities for mental health, intermediate care facilities for the mentally retarded, and boarding care homes:


28-39-158. Dietary services.

The nursing facility shall provide each resident with nourishing, palatable, attractive, non-contaminated foods that meet the daily nutritional and special dietary needs of each resident. A facility that has a contract with an outside food management company shall be found to be in compliance with this regulation if the company meets the requirements of these regulations.

(a) Staffing.

(1) Overall supervisory responsibility for the dietetic services shall be the assigned responsibility of a full-time employee who is a licensed dietitian or a dietetic services supervisor who receives regularly scheduled onsite supervision from a licensed dietitian. The nursing facility shall provide sufficient support staff to assure adequate time for planning and supervision.

(2) The nursing facility shall implement written policies and procedures for all functions of the dietetic services department. The policies and procedures shall be available for use in the department.

(b) Menus and nutritional adequacy.

(1) Menus shall meet the nutritional needs of the residents in accordance with:

(A) each resident’s comprehensive assessment;

(B) the attending physician's orders; and

(C) the recommended dietary allowances of the food and nutrition board of the national research council, national academy of sciences as published in Recommended Dietary Allowances, 10th ed., 1989.

(2) Menus for all diets and therapeutic modifications shall be written at least two weeks in advance of service and shall be approved by a licensed dietitian.

(3) Menus shall ensure that not less than 20 percent of the total calorie intake is served at one meal.

(4) When a substitution is necessary, the substitute shall be of similar nutritive value, recorded, and available for review.
(5) Menus shall be followed.

(6) The nursing facility shall keep on file and available for review records of the foods purchased and meals and snacks actually served for three months.

(c) Food. Each facility shall comply with the following provisions.

(1) Dietary service staff shall prepare the food by methods that conserve nutritive value, flavor, appetizing aroma, and appearance.

(2) Food shall be attractive, flavorful, well-seasoned, and served at the proper temperature.

(A) Before serving, the facility shall hold hot foods at 140o F or above.

(B) Hot foods, when served to the resident, shall not be below 115o F.

(C) The facility shall hold and serve cold foods that are potentially hazardous at not more than 45o F.

(3) The facility shall prepare the food using standardized recipes adjusted to the number of residents served.

(4) The facility shall prepare the food in a form designed to meet individual resident needs.

(5) When a resident refuses a food served, the facility shall serve the resident food of similar nutritive value as a substitute.

(d) Therapeutic diets.

(1) The attending physician shall prescribe any therapeutic diets.

(2) A current diet manual approved by the licensed dietitian shall be available to attending physicians, nurses, and dietetic services personnel. The facility shall use the manual as a guide for writing menus for therapeutic diets.

(e) Frequency of meals.

(1) Each resident shall receive and the facility shall:

(A) Provide at least three meals daily, at regular times;

(B) offer nourishment at bedtime to all residents unless clinically contra-indicated; and

(C) provide between-meal nourishments when clinically indicated or requested when not clinically contra-indicated.

(2) There shall be no more than 14 hours' time between a substantial evening meal and breakfast the following day, except when a nourishing snack is provided at bedtime, in which instance 16 hours may elapse. A nourishing snack shall contain items from at least 2 food groups.
(f) Assistive devices. Each facility shall provide, based on the comprehensive assessment, special eating equipment and utensils for residents who need them.

(g) Sanitary conditions. Each facility shall comply with the following provisions.

(1) The facility shall procure all foods from sources approved or considered satisfactory by federal, state and local authorities.

(2) The facility shall store, prepare, display, distribute, and serve foods to residents, visitors and staff under sanitary conditions.

(A) The facility shall keep potentially hazardous foods at a temperature of 45°F or 7°C or lower, or at a temperature of 140°F or 60°C or higher.

(B) The facility shall provide each mechanically refrigerated storage area with a numerically scaled thermometer, accurate to ± plus or -minus 3°F or 1.5°C, which is located to measure the warmest part of the storage area and is easily readable.

(C) The facility shall keep frozen food frozen and shall store the food at a temperature of not more than 0°F.

(D) The facility shall store each prepared food, dry or staple food, single service ware, sanitized equipment, or utensil at least six inches or 15 centimeters above the floor on clean surfaces and shall protect the food from contamination.

(E) The facility shall store and label containers of poisonous compounds or cleaning supplies and keep the containers in areas separate from those used for food storage, preparation and serving.

(F) The facility shall cover, label, and date each food item not stored in the original product container or package.

(G) The facility shall tightly cover and date each opened food item stored in the original product container or package.

(H) The facility shall not store prepared foods, dry or staple foods, single service ware, sanitized equipment or utensils and containers of food under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads. The facility shall not store food and service equipment or utensils in toilet rooms.

(I) The facility shall store food not subject to further washing or cooking before serving in a way that protects the food against cross-contamination.

(J) The facility shall not store packaged food subject to entry of water in contact with water or undrained ice.

(3) The facility shall prepare and serve food:

(A) with the least possible manual contact;

(B) with suitable utensils; and
(C) on surfaces that have been cleaned, rinsed and sanitized before use to prevent cross-contamination.

(4) The facility shall not prepare or serve food from containers with serious defects.

(5) The facility shall thoroughly wash each raw fruit and raw vegetable with water before being cooked or served.

(6) With the following exceptions, the facility shall cook potentially hazardous foods which require cooking to at least 145°F.

(A) The facility shall cook poultry, poultry stuffings, stuffed meats and stuffing containing meat to a minimum temperature of 165°F in all parts of the food with no interruption of the cooking process.

(B) The facility shall cook pork and any food containing pork to a minimum temperature of 150°F in all parts of the food.

(C) The facility shall cook ground beef and any food containing ground beef to at least 155°F in all parts of the food.

(7) When foods in which dry milk has been added are not cooked, the foods shall be consumed within 24 hours.

(8) The facility shall use only pasteurized fresh milk as a milk beverage and shall transfer to a glass directly from a milk dispenser or original container. When clinically indicated, non-fat dry milk may be added to fresh milk served to a resident.

(9) The facility shall use only clean whole eggs, with shells intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or egg products, or commercially prepared and packaged hard cooked, peeled eggs. All eggs shall be cooked.

(10) The facility shall reheat rapidly potentially hazardous foods that have been cooked and then refrigerated to a minimum of 165°F throughout before being served or before being placed in a hot food storage unit.

(11) The facility shall use metal stem-type numerically scaled thermometers, accurate to plus or minus 3°F to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of potentially hazardous foods.

(12) The facility shall thaw potentially hazardous foods:

(A) Under refrigeration;

(B) under cold running water;

(C) in a microwave when the food will be immediately cooked; or

(D) as part of the cooking process.

(h) Service. The facility shall:
(1) Provide dining room service for all capable residents;

(2) provide ice for beverages which shall be handled in a manner which prevents contamination;

(3) cover food distributed for room service and to dining rooms not adjacent to the dietetic services department; and

(4) protect food on display from contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protective devices or other effective means.

(i) Dietary employees shall:

(1) Thoroughly wash their hands and exposed portions of their arms with soap and water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed;

(2) wear clean outer clothing;

(3) use effective hair restraints to prevent contamination of food and food-contact surfaces;

(4) taste food in a sanitary manner;

(5) use equipment and utensils constructed from and repaired with safe materials;

(6) Clean and sanitize equipment and utensils after each use;

(7) Use clean, dry cloths or paper used for no purpose but for wiping food spills on tableware such as plates or bowls; and,

(8) Use cloths or sponges for wiping food spills on food and non-food contact surfaces which are clean, rinsed frequently in a sanitizing solution and stored in the sanitizing solution which is maintained at an effective concentration.

(j) The facility shall ensure that only persons authorized by the facility are in the dietary services area or areas.

(k) The facility shall ensure that the food preparation area is not used as a dining area.

(l) Cleaning procedures. The facility shall:

(1) Establish and follow cleaning procedures to ensure that all equipment and work areas, including walls, floors, and ceilings are clean;

(2) perform cleaning and sanitizing of tableware and equipment by immersion, spray-type, or low-temperature dishwashing machines used according to the manufacturer’s directions. Rinse temperature in hot water machines shall be a minimum of 160°F at the dish level;

(3) air dry all tableware, kitchenware, and equipment;
(4) store glasses and cups in an inverted position;
(5) cover or invert other stored utensils;
(6) provide for storage of knives, forks, and spoons so that the handle is first presented;
(7) provide mops and mop pails for exclusive use in the dietary department;
(8) provide a lavatory with hot and cold running water, soap, and single-service towels or a mechanical hand drying device in dietetic services;
(9) dispose of waste in a sanitary manner via a food disposal or in clean containers with tight-fitting covers; and
(10) cover waste containers except when in continuous use.

(Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-287. Dietary services. [adult day care]

a) Each adult day care facility shall provide or coordinate the provision of dietary services to residents as specified in the resident’s negotiated service agreement. Each facility that has a contract with an outside food management company shall be responsible for the contracting company’s compliance with these regulations.

a) Staffing

1) The overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

2) If the resident’s negotiated services agreement includes the provision of a therapeutic diet, the diet served shall be based on instruction from a physician or licensed dietitian.

3) Menus shall be planned in advance and shall be based on “nutrition and your health: dietary guidelines for Americans,” 4th edition, 1995, home and garden bulletin #232, published by the U.S. department of agriculture and the department of health and human services, which is herby adopted by reference.

b) Foods shall be prepared by safe methods that conserve the nutritive value, flavor, and appearance and shall be attractively served at the proper temperature.

c) Menu plans shall be available to residents on at least a weekly basis.

d) A method shall be established to allow input by residents on the selection of food to be served and the scheduling of meal services.

(Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)
The facility shall design and equip food service facilities to meet the requirements of the residents. A facility shall provide the following elements in a size appropriate to the implementation of the type of food services system employed.

1) There shall be a control station for receiving food supplies.

2) There shall be a storage space for food for at least four days.

3) There shall be food preparation facilities. Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving. Convenience food service systems, including frozen prepared meals, bulk-packaged entrees, individually packaged portions, or a system using contractual commissary services, shall include space and equipment for thawing, portioning, cooking, and baking.

4) There shall be a two-compartment sink for food preparation. Each facility constructed before February 15, 1977 shall be required to have a sink for food preparation.

...6) There shall be space for equipment for resident meal service, tray assembly, and distribution.

7) There shall be a ware-washing area apart from and located to prevent contamination of food preparation and serving areas. The area shall include commercial-type dishwashing equipment. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area.

8) There shall be a three-compartment deep sink for manual cleaning and sanitizing.

9) Exhaust ventilation for the ware-washing room and dietary dry storage area shall conform to K.A.R. 28-39-162c, table 1.

10) There shall be a sanitizing provision for cans, carts, and mobile tray conveyors in any facility constructed after February 15, 1977.

11) There shall be a waste storage area in a separate room or an outside area that is readily accessible for direct pickup or disposal.

...13) A staff toilet and lavatory shall be accessible to the dietary staff.

14) Each facility constructed after February 15, 1977 shall contain a janitor’s closet located within the dietary department, which shall contain a floor receptor or service sink, and storage space for housekeeping equipment and supplies.

...G) Hot water heating equipment shall have sufficient capacity to supply hot water at temperatures and amounts indicated below. Water temperature shall be
measured at the hot water point of use or at the inlet to processing equipment. Dietary 120 (Minimum)-Temperature (degrees F).

Kansas Administrative Regulations: Rules and Regulations for Licensure of Kansas Dietitians

28-59-1 Application for a license or temporary license.

a) Each applicant for a license or temporary license shall submit a completed, department-approved application form and any requested supporting documentation to the department together with the appropriate fee specified in K.A.R. 28.59-7.

b) Each applicant for a license or temporary license shall provide the department with the applicant’s academic transcripts and proof of receipt of a baccalaureate or postbaccalaureate degree. These documents shall be provided directly to the department by the academic institution.

c) A temporary license may be issued for either of the following purposes:

1) The applicant’s completion of the examination specified in K.A.R. 28-59-4; or

2) The applicant’s accrual of continuing education credits required to reinstate a lapsed license.

d) Each applicant for renewal of a temporary license shall submit a letter to the secretary requesting the renewal and describing why the applicant has failed to obtain a license in the last six months and what measures are being taken to secure a license, together with the temporary license renewal fee specified in K.A.R. 28-59-7.


28-59-2 Application for a person licensed in another state.

a) Each applicant who is presently or has been previously licensed in another state shall submit a completed, department-approved application form with the license fee specified in K.A.R. 28-59-7.

b) Each applicant shall meet current requirements for licensure in Kansas. The requirements of one of the states that issued a license to the applicant shall be at least equal to Kansas licensure requirements at the time the applicant seeks a Kansas license.

c) Each applicant shall be in good standing with each licensing agency that has issued a license to the applicant.

d) “Good standing” means both of the following:

1) The applicant’s license is not under any administrative proceeding.
2) The applicant's license is not under any disciplinary action.


28-59-3 Educational and experience requirements

a) To determine whether an applicant has complied with the requirements that the person has received a baccalaureate or postbaccalaureate degree pursuant to K.S.A. 65-5906, and amendments thereto, consideration shall be given to whether the course of study is accredited or approved by the American dietetic association or is deemed equivalent by the secretary.

b) Each applicant who has received a baccalaureate or postbaccalaureate degree outside the United States or its territories and whose transcript is not in English shall submit an officially translated English copy of the applicant's transcript and, if necessary, supporting documents. The transcript shall be translated by a source and in a manner that are acceptable to the secretary. Each applicant shall pay any transcription fee directly to the transcriber.

c) Each applicant who has received a baccalaureate or postbaccalaureate degree outside the United States or its territories shall obtain an equivalency validation from an agency that is approved by the secretary and that specializes in educational credential evaluations. Each applicant shall pay the required equivalency validation fee directly to the validation agency.

d) Each applicant who has received a baccalaureate or postbaccalaureate degree and whose course of study was not from an American dietetic association accredited or approved program shall obtain an equivalency validation from a college or university accredited or approved dietetics program approved by the secretary.

e) To determine whether an applicant has complied with the requirement that a person complete 900 clock hours of dietetic experience pursuant to K.S.A. 65-5906, and amendments thereto, consideration shall be given to whether or not the supervised experience is acquired through an American dietetic association approved or accredited program for dietitians or is deemed its equivalent by the secretary.

f) Each applicant who did not receive the supervised experience from an American dietetic association accredited or approved program shall obtain an equivalency validation from a college or university accredited or approved dietetics program approved by the secretary.

g) Each applicant shall submit the necessary documentation for an equivalency validation to be made. Each equivalency validation evaluation and corresponding documentation shall be sent directly to the department by the agency providing the validation. After consideration of the evaluation and documentation, the applicant shall be notified in writing of the decision of the secretary.

h) “American dietetic association” means the national professional association that accredits or approves educational programs and supervised experience programs in dietetics.
29-59-4 Examination requirement

The following shall be the procedures for the examination of applicants:

a) Each applicant for a license shall pass an examination for dietitians approved by the secretary. The minimum passing score for the examination shall be 25.

b) Each applicant shall have successfully completed a course of study and supervision experience pursuant to K.S.A. 65-5906, and amendments thereto, before submitting an application to sit for the examination.

c) Each applicant shall pay the required examination fee directly to the testing agency.

28-59-5. License renewal

The provisions of this regulation shall not apply to temporary licenses.

a) Each applicant for renewal of a license shall submit a completed, department-approved application form and any requested supporting documentation with the license renewal fee specified in K.A.R. 28-59-7.

b) Each applicant for renewal of a license shall be completed 15 clock hours of documented and approved continuing education during the renewal period. Approved continuing education clock hours completed in excess of the 15-hours requirement shall not be carried over to the subsequent renewal period. “One clock hour” means a minimum of 50 minutes of direct instruction, exclusive of registration, breaks, and meals. c) Each application for renewal of a license shall be filed on or before the last day of February of the calendar year in which the license expires. Licenses shall be renewable biennially, with the day of expiration being the last day of February of the applicable year.

d) “Sponsorship” means an approved, long-term sponsoring of programs for the purpose of fulfilling renewal or reinstatement continuing education requirements. Each approved sponsor shall be accountable for upholding the standards in place for the approval of continuing education programs under the authority of the department. Each sponsor shall make application and fulfill requirements as prescribed on department-approved forms. The authority to sanction or otherwise discipline an approved sponsor shall be maintained by the department. These sanctions may include any of the following:

1) Supplementary documentation;

2) program restrictions;

3) temporary or permanent suspension of long-term sponsorship approval; or

4) other disciplinary steps as prescribed by the department.

e) Methods of accruing continuing education hours:
1) Continuing education may be accrued from any of the following:

A) Academic courses;

B) workshops, seminars, or poster sessions;

C) self-directed study materials; or

D) presentations.

2) Academic courses shall be from a regionally accredited college or university.

3) Self-study materials may include audio tapes, study kits, and videotapes.

f) The content and objective of the continuing education activity shall be primarily related to the practice of dietetics pursuant to K.S.A. 65-5902, and amendments thereto. The purpose of the educational activity shall be the furthering of the applicant’s education and shall not be a part of the applicant's job responsibilities. In-service shall be considered to be part of the applicant’s job responsibilities.

g) Each applicant shall have requested and received approval by the department for continuing education activities before submission of the license renewal application and license renewal fee.

h) Approval for a continuing education activity may be obtained by either of the following methods:

A) The instructor or sponsor of a single-offering continuing education activity submitting information and documentation on forms approved by the department before the activity's occurrence; or

B) the applicant submitting information and documentation on forms approved by the department requesting approval for an activity that has already taken place.

2) An organization, institution, agency, or individual shall be qualified for approval as a long-term sponsor of continuing education activities if, after review of the application, the secretary determines that the applicant agrees to perform all of the following:

A) Present organized programs of learning;

B) present subject matter that integrally relates to the practice of dietetics;

C) approve and present program activities that contribute to the professional competency of the licensee; and

D) sponsor program presenters who are individuals with education, training, or experience qualifying them to present the subject matter of the programs.

i) All continuing education sponsors that received approval as specified in paragraph (h)(2) shall provide a certificate of attendance to each licensee who attends a continuing education activity. This certificate shall state the following:
1) The sponsor’s name and approval number;

2) the date of the program;

3) the name of the participant;

4) the total number of clock hours of the approved activity attended, excluding introductions, registration, breaks, and meals;

5) the activity title and its presenter;

6) the location; and

7) an indication of whether or not the activity has been approved for dietetics continuing education.

j) Assignment of clock hours to approved continuing education activities shall be determined by the following criteria:

1) One academic-semester credit hour course shall be equivalent to 15 clock hours of continuing education. One academic-trimester credit hour course shall be equivalent to 14 clock hours of continuing education. One academic quarter credit hour course shall be equivalent to 10 clock hours of continuing education.

2) One academic-semester credit hour course audited shall be equivalent to eight clock hours of continuing education. One academic-trimester credit hour course audited shall be equivalent to seven clock hours of continuing education. One academic-quarter credit hour course audited shall be equivalent to five clock hours of continuing education.

3) One clock hour of contact between a presentation instructor and the applicant shall be equivalent to one clock hour of continuing education for the applicant.

A) Contact time shall be rounded down to the nearest one-half hour interval.

B) The presenting instructor may be given two clock hours of continuing education for every one clock hour of contact between the instructor and the attendees for each first-time preparation and presentation of a new workshop, seminar, or poster session.

C) If the presentation was presented by more than one instructor, the continuing education clock hours shall be prorated among the instructors.

4) One clock hour of time required to complete the self-directed study material, as specified by the sponsor of the material, shall be equivalent to one clock hour of continuing education. The criteria for approving self-directed study shall include the following:

A) Contact time shall be rounded down to the nearest one-half hour interval.

B) Each applicant shall provide validation of actual completion of the material.
k) Each applicant shall maintain individual records of information and documentation on approved continuing education hours. A verification of these records shall be submitted to the department as part of the license renewal application.

l) Each licensee whose initial licensure period is less than 24 months shall be required to obtain not less than one-half of continuing education for each month in the initial licensure period.

28-59-5a Reinstatement of license.

Each applicant for reinstatement of a license shall meet the following criteria:

a) Submit an application on department-approved forms accompanied by the appropriate fee specified in K.A.R. 28-59-7; and

b) document and verify the accumulation of not less than 15 hours of approved continuing education as specified in K.A.R. 28-59-5 for the previous complete or partial licensure period. The required hours of approved continuing education shall have been accumulated within the past two calendar years before the date of application for reinstatement.


28-59-6 Unprofessional conduct

Any of the following acts shall be evidence of unprofessional conduct of a licensee, temporary licensee, or applicant:

a) Misrepresenting any professional qualifications or credentials;

b) promoting or endorsing products in a manner that is misleading or false;

c) making false or misleading claims about the efficacy of any dietetic services;

d) permitting the use of one’s name or credentials for the purpose of certifying the dietetic services have been rendered when the licensee or applicant has not provided or supervised the provision of the services;

e) failing to maintain the knowledge and skills required for continuing professional competence;

f) failing to exercise appropriate supervision over persons if there is a supervisory relationship;

h) impersonating another person who is licensed;

i) knowingly allowing another person to use one’s license;

j) assisting another person to obtain a license under false pretense;

k) failing to report to the department alleged violations of K.S.A. 65-5901, et seq., and amendments thereto, and article 59 of these regulations;

l) refusing to cooperate in a timely manner with the department’s investigation of complaints lodged against a licensee, temporary licensee, or applicant;

m) acquiring or providing a commission or rebate or any other form of remuneration for referral to any other services or the use of any services.
n) failing to disclose to a client any interest in commercial enterprises that the licensee, temporary licensee or applicant promotes for the purpose of personal gain or profit;

o) using undue influence on a client, including the promotion of the sales of services and products in a manner that exploits the client for financial gain or personal gratification;

p) failing to provide prospective clients with information, including obligation for the payment and financial arrangements, that might affect the client’s decision to enter into the relationship;

q) misrepresenting professional competency by performing or offering to perform services that are clearly unwarranted on the basis of education, training, or experience; or

r) failing to conform to generally accepted principle and standards of dietetic practice, which shall be those generally recognized by the profession as appropriate for the situation presented, including those promulgated or interpreted by professional or governmental bodies.

(authorized by the implementing K.S.A. 1999 Supp. 65-5911(a)(2); effective Feb. 18, 1991; amended March 16, 2001.)

28-59-7 Fees

a) The license application fee shall be $140.00. The license application fee for an initial licensure period of less than 24 months shall be prorated at $5.50 per month for any full or partial month, until the last day of February of the calendar year that is not less than 12 months and not more than 24 months from the date of application.

b) The license renewal fee shall be $135.00.

c) The license renewal late fee shall be $50.00

d) The temporary license application fee shall be $70.00

e) The temporary license renewal fee shall be $70.00

f) The application fee for reinstatement of a lapsed or revoked license shall be $100.00 in addition to the license renewal fee established in subsection (b) of this regulation.

g) The wall or wallet card license replacement fee shall be $10.00

h) The sponsorship application fee shall be $150.00


28-59-8 Change of name or address

a) Each licensee shall notify the department of any changes in name or mailing address within 15 days of these changes.
b) Notification of address changes shall be made directly to the department and shall include the name, old mailing address, new mailing address, and zip code.

c) Within 90 days of the notification of name change, the following shall be received by the department:

1) A copy of a marriage certificate, the court decree evidencing the change, or a social security card reflecting the new name; and

2) payment of the applicable fee specified in K.A.R. 29-59-7 if a new wallet card is requested. In addition, the previously issued identification card shall be returned to the department.

(authorized by and implementing K.S.A. 65-5904; effective Feb. 18, 2001; amended March 16, 2001.)

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**KENTUCKY**

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Section 10 [nursing facilities]. Dietary service in the facility shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(1) Staffing. The facility shall employ a qualified dietician either full time, part time, or on a consultant basis.

(a) If a qualified dietician is not employed full time, the facility shall designate a person to serve as the director of food service.

(b) Qualified dietician means a person who has earned at least a baccalaureate degree from a college or university which is accredited by the Southern Association of Colleges and Universities, or an accrediting agency recognized by the Southern Association of Colleges and Universities or a successor to the powers of both; and

1. Successfully completed minimum academic requirements established by the Commission on Dietetic Registration, an affiliate of the National Commission for Health Certifying Agencies; or

2. Successfully completed one (1) of the accredited experience options established by the Commission on Dietetic Registration, which includes but is not limited to, completion of an accredited coordinated undergraduate program, an accredited dietetic internship, and approved three (3) preplanned work experience, or a master’s degree in nutrition or a related area with six (6) months of full-time or equivalent qualifying experience.
(2) Sufficient staff. The facility shall employ sufficient support personnel competent to carry out the functions of the dietary service.

(3) Menus and nutritional adequacy. Menus shall:

(a) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(b) Be prepared in advance;

(c) Be followed;

(d) Be posted at least one (1) week in advance, with changes recorded on the menu, and kept on file for at least thirty (30) days.

(4) Food. Each resident shall receive and the facility shall provide:

(a) Food prepared by methods that conserve nutritive value, flavor and appearances;

(b) Food that is palatable, attractive and at the proper temperature;

(c) Food prepared in a form designed to meet individual needs; and

(d) Substitutes offered of similar nutritive value to residents who refuse food served.

(5) Therapeutic diets. Therapeutic diets must be prescribed by the attending physician.

(6) Frequency of meals.

(a) Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes in the community.

(b) There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (d) of this subsection.

(c) The facility shall offer snacks at bedtime daily.

(d) When a nourishing snack is provided at bedtime, up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span and a nourishing snack is served.

(7) Assistive devices. The facility shall provide special eating equipment and utensils for residents who need them.

(8) Sanitary conditions. The facility shall:

(a) Procure food from sources approved or considered satisfactory by federal, state or local authorities;

(b) Store, prepare, distribute, and serve food under sanitary conditions; and
(c) Dispose of garbage and refuse properly.

Definition:

Dietary Manager— a person who:

1. is a licensed dietitian; or

2. is a graduate of a dietetic technician program; or

3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager’s Association; or

4. has successfully completed a training course at a state approved school (vocational or university) which includes coursework in foods, food service supervision, and diet therapy.

Documentation of an eight-hour course of formalized instruction in diet therapy, conducted by the employing facility’s qualified dietitian, is permissible if the course meets only the foods, and food service supervision requirements; or

5. is currently enrolled in an acceptable course of not more than 12 months which will qualify an individual upon completion.

Subchapter C. Dietetic Services

§9815. General Provisions

The nursing home shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.
§9817. Dietary Service Personnel

A. The nursing home shall employ a licensed dietitian either full-time, part-time or on a consultant basis. A minimum consultation time shall be not less than eight hours per month to ensure nutritional needs of residents are addressed timely. There shall be documentation to support that the consultation time was given.

B. If a licensed dietitian is not employed full-time, the nursing home shall designate a full-time person to serve as the dietary manager.

C. Residents at nutritional risk shall have an in-depth nutritional assessment conducted by the consulting dietitian.

D. The nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary services.

§9819. Menus and Nutritional Adequacy

A. Menus shall be planned, approved, signed and dated by a licensed dietitian prior to use in the nursing home to meet the nutritional needs of the residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council and the National Academy of Sciences, taking into account the cultural background and food habits of residents, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the resident:

1. menus shall be written for each therapeutic diet ordered;

2. if cycle menus are used, the cycle shall cover a minimum of three weeks and shall be different each day of the week;

3. each day's menu shall show the actual date served and shall be retained for six months;

4. menus for the current week shall be available to the residents and posted where food is prepared and served for dietary personnel. Portion sizes shall be reflected either on the menu or within the recipe used to prepare the meal.
B. Therapeutic diets shall be prescribed by the medical practitioner responsible for the care of the resident. Each resident’s diet order shall be documented in the resident’s clinical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and informing the dietary service when the resident does not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

1. The nursing home shall maintain a current list of residents identified by name, room number, and diet order, and such identification shall accompany each resident’s meal when it is served.

2. A current therapeutic diet manual, approved by a registered dietitian, shall be readily available to attending physicians, nursing staff, and dietetic service personnel and shall be the guide used for ordering and serving diets.

C. Each resident shall receive and the nursing home shall provide:

1. at least three meals daily, at regular times comparable to normal mealtimes in the community;

2. food prepared by methods that conserve nutritive value, flavor, and appearance;

3. food that is palatable, attractive, and at the proper temperature;

4. food prepared in a form designed to meet individual needs; and

5. substitutes offered of similar nutritional value to residents who refuse food or beverages served.

D. A list of all menu substitutions shall be kept for 30 days.

E. There shall be no more than 14 hours between a substantial evening meal and breakfast the following day. A substantial evening meal is defined as an offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese.

F. There shall be no more than 16 hours between a substantial evening meal and breakfast the following day when a nourishing snack is offered at bedtime. A nourishing snack is defined as a verbal offering of items, single or in combination, from the basic food groups.

G. Bedtime nourishments shall be offered nightly to all residents, unless contraindicated by the resident’s medical practitioner, as documented in the resident’s clinical record.

H. If residents require assistance in eating, food shall be maintained at appropriate serving temperatures until assistance is provided. Feeder trays shall be delivered at the time staff is immediately available for feeding.


HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:57 (January 1998).
§9820. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant must have successfully completed the state-approved training course published by the American Health Care Association, Assisted Dining: The Role and Skills of Feeding Assistants.

1. Licensed personnel qualified to teach the course include:
   a. registered nurses;
   b. licensed practical nurses;
   c. dieticians; and
   d. speech therapists.

2. The competency of feeding assistants must be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between facilities, the receiving facility must assure competency.

B. Feeding assistants must be registered on the Direct Service Worker Registry (DSW) unless they are volunteers.

1. Volunteers must complete the training course except in cases where a family member or significant other is feeding the resident.

2. If verification of completion of training cannot be obtained from the DSW Registry, the training course must be taken.

C. The clinical decision as to which residents are fed by a feeding assistant must be made by a registered nurse (RN) or licensed practical nurse (LPN). It must be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant must be noted on the plan of care.

E. There must be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.
F. There must be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant must work under the supervision of a RN or LPN and the resident’s clinical record must contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Facilities may use their existing staff to feed residents as long as each staff member successfully completes the state-approved training course.

J. Facilities must maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.


HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1067 (June 2006).

§9821. Equipment and Supplies

A. Special eating equipment and utensils shall be provided for residents who need them. At least a one week supply of staple food with a three-day supply of perishable food conforming to the approved menu shall be maintained on the premises.

B. An approved lavatory shall be convenient and properly equipped for dietary services staff use.


HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:58 (January 1998).

§9823. Sanitary Conditions

A. All food shall be procured, stored, prepared, distributed, and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink according to State Sanitary Code.

B. Refrigerator temperatures shall be maintained according to State Sanitary Code.
C. Hot foods shall leave the kitchen or steam table according to State Sanitary Code.

D. In-room delivery temperatures shall be maintained according to State Sanitary Code.

E. Food shall be transported to residents' rooms in a manner that protects it from contamination, while maintaining required temperatures.

F. Refrigerated food which has been opened from its original package shall be covered, labeled, and dated.

G. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized, and stored. This includes:

1. maintaining a water temperature in dishwashing machines at 140°F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180°F for the final rinse; or

2. maintaining water temperature in low temperature machines at 120°F (or according to the manufacturer's specification or instructions) with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces; or

3. maintaining a wash water temperature of 75°F, for manual washing in a three-compartment sink, with 25 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine in the final rinse water; or a hot water immersion at 170°F for at least 30 seconds shall be maintained.

J. Dietary staff shall not store personal items within the food preparation and storage areas.

K. The kitchen shall not be used for dining of residents or unauthorized personnel.

L. Dietary staff shall use good hygienic practices.

M. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

N. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

O. There shall be no use of tobacco products in the dietary department.

P. Toxic items such as insecticides, detergents, polishes, and the like shall be properly stored, labeled and used.

Q. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation
and utensil washing areas shall be kept covered when meal preparation is completed and when full.

R. All ice intended for human consumption shall be free of visible trash and sediment.

1. Ice used for cooling stored food and food containers shall not be used for human consumption.

2. Ice stored in machines outside the kitchen shall be protected from contamination.

3. Ice scoops shall be stored in a manner so as to protect them from becoming soiled or contaminated between usage.


HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:58 (January 1998).

“Feeding Assistants” are paid staff, who have successfully completed a State-approved training program and who assist residents with their meals. Feeding assistants are not considered direct care staff

8.D. Personnel Records

8.D.1. Employee Record on File

e. Feeding Assistants

All nursing facilities shall maintain a record of the individuals who have successfully completed a State-approved feeding assistance program. Feeding assistants shall not feed residents who require the assistance of staff with more specialized training, such as residents with recurrent lung aspirations, difficulty swallowing, on feeding tubes, and parenteral or IV feedings.
9.B. Assignment of Tasks

9.B.5. Feeding Assistants

All trained feeding assistants shall work under the supervision of a registered or licensed practical nurse. The decision to allow a feeding assistant to feed a resident is based on the charge nurse's assessment and the resident's latest assessment and plan of care. Facilities are responsible for any adverse actions resulting from the use of feeding assistants.

18.A. Policies and Procedures

18.A.1. Dietetic services shall be described in the facility's policy and procedure manual with at least the following:

a. Organization and dietetic services offered;

b. Personnel management;

c. Staffing and budgeting;

d. Orientation and in service education;

e. Menu planning;

f. Therapeutic diets;

g. Resident clinical nutritional care;

h. Purchasing, receiving, and storing of food and supplies;

i. Food preparation and service;

j. Meal and nourishment service;

k. Safety, sanitation, and infection control;

l. Time parameters for storage of opened or leftover foods; and

m. Disaster feeding plan.

18.A.2. Dietetic services will be represented in the professional policy group.

18.B. Staffing

18.B.1. There shall be sufficient numbers of adequately trained staff to carry out the functions of dietetic services and to meet the dietary needs of residents.

18.B.2. Health and Hygiene
a. No person, while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or any acute gastrointestinal disease or other infection deemed to be transmissible through food, shall work in dietetic services in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals.

b. Staff shall maintain a high degree of personal cleanliness and shall practice hygienic food-handling techniques.

c. All staff shall thoroughly wash their hands and wrist areas with soap and warm water before starting work and after any absence from the work station, and shall wash hands during work hours as often as may be necessary to remove soil and contamination. Fingernails shall be kept clean and trimmed.

d. Staff shall wear clean outer clothing and aprons. Hair shall effectively be restrained through the use of nets or other clean hair covering.

18.B.3. Food Service Supervisor

There shall be a full-time employee who meets the definition of a qualified Food Service Supervisor (Dietetic Service Supervisor) assigned the overall responsibility for dietetic service.

18.B.4. A Food Service Supervisor (Dietetic Service Supervisor) is a person who:

a. Is a qualified dietitian; or

b. Is a graduate of a dietetic technician program, approved by the American Dietetic Association; or is a graduate of the Dietary Managers Association approved course and has passed the Certifying Board for Dietary Managers credentialling exam; or

c. Is a graduate of a State-approved course in food service supervision; or

d. Has training and experience in food service supervision and management in a military service, equivalent to the requirements in (b) or (c) above.

Responsibilities of the Food Service Supervisor shall include performance, supervision or approval of the following:

a. Administration

1. Orientation and training for all staff on hygiene practices, with emphasis on hand washing techniques, food preparation, storage, handling and sanitation;

2. Establishing work schedules and assignments for all staff;

3. Participating in development and review of dietary service policies and procedures;

4. Participating in planning and conducting in-service education for dietetic, nursing and other staff, as needed; and
5. Menu planning and ordering of food and supplies.

b. Resident Services

1. Interviewing all new residents regarding food preferences and maintaining records of pertinent nutrition information;

2. Participating in patient care planning conferences when indicated;

3. Reporting to the nursing staff and/or consultant dietitian, and documenting, as necessary, significant observations and resident responses to dietary plans of care; and

4. Documenting, as necessary, in residents’ medical records the nutritional care delivered, with guidance from consultant dietitian.

c. Preparation, Service and Sanitation

1. Supervising preparation and service of all food including monitoring food temperatures and reviewing residents’ meal trays for compliance with the prescribed diet;

2. Monitoring food storage in all areas of the facility including stock rotation, inventory control, and proper packaging, labeling and dating of food; and

3. Assuring that proper sanitation procedures are implemented in the kitchen and warewashing areas and all other areas in the facility where food is stored, prepared and served.

18.B.5. Dietitian

If the nursing facility does not employ a Registered Dietitian, there must be a written agreement with a Registered Dietitian currently licensed to practice in the State of Maine to provide consultation.

18.B.6. Responsibilities of Consultant Registered Dietitian

Responsibilities shall include:

a. Preparing reports for the administrator at least monthly, reflecting all activities and recommendations;

b. Evaluating the functions of the dietetic services, identifying strengths, weaknesses and priorities;

c. Participating in the development and revision of policies and procedures;

d. Reviewing and approving all menus, including therapeutic diets, to ensure nutritional adequacy and conformity to physician diet orders;

e. Counseling residents and/or family members when appropriate;

f. Documenting pertinent information regarding residents’ nutritional care and status in medical record, as necessary;
g. Participating in the assessment of residents and in patient care planning conferences as needed;

h. Planning, with Food Service Supervisor, in service education programs for dietetic employees at least quarterly. Providing in service for other staff as needed and requested; and

i. Participating in residents’ discharge planning as indicated by residents’ needs.

18.C. Adequacy of Diets

The facility must provide each resident with a nourishing, well-balanced diet that meets the daily nutritional and special dietary needs of each resident and that meets the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, adjusted for age, sex, and activity. 18.C.1. The minimum daily food requirements for adults shall be based on the following:

a. Milk and milk products: Two or more eight ounce cups of milk or food containing the calcium equivalent of fluid milk shall be offered daily. A portion of this amount may be served in a cooked form such as milk-based chowders.

b. Meat, fish, poultry, and alternatives: A minimum total of five ounces of good quality protein food shall be offered at two or more meals. The evening meal shall include a minimum of two ounces of good quality protein food.

c. Fruits and vegetables: Five or more servings per day including a good food(s) source of vitamin C daily and a good food source of vitamin A at least four time weekly. Fruit flavored beverages with or without vitamins added shall not be considered a fulfillment of these requirements.

d. Grain group: Six or more servings daily of breads, cereals, and other grain products made from whole grain, fortified or enriched grains.

e. Other nourishing foods and beverages to meet individual diet requirements or preferences as necessary.

18.C.2. Nourishments and Snacks

a. Between-meal and bedtime snacks or nourishments shall be planned, scheduled, and offered routinely or upon request to all residents, except when contraindicated for medical reasons.

b. When the kitchen is not open at all times, a nourishment station shall be provided and supplied.

18.D. Menus

18.D.1. Menus shall be planned and written in a minimum three week cycle and adjusted to include fresh foods in season.

18.D.3. Daily menus shall provide for a sufficient variety of foods, and no menu for a lunch or dinner shall be repeated within seven days.

18.D.4. Menus shall be served as planned and substitutions shall be consistent with the Recommended Dietary Allowances. Changes shall be recorded and reviewed by the dietitian at the next visit.

18.D.5. Menus shall be planned ahead and food supplies maintained so that a nutritionally adequate alternate meal can be provided at all times.

18.D.6. The current menu plan shall be posted conspicuously and be readable by personnel, residents and dietetic services staff.

18.E. Therapeutic Diets

18.E.1. Facilities with residents in need of therapeutic diets shall provide for such diets as prescribed by the attending physician.

18.E.2. Therapeutic diets and menus shall be planned, prepared, and served with consultation from a dietitian.

18.E.3. Staff responsible for serving therapeutic diets shall have guidelines and knowledge of food values to make appropriate substitutions when necessary.

18.E.4. A diet manual, not more than five years old, shall be approved by the professional policy group. Copies shall be readily available to attending physicians, nursing and dietetic services staff.

18.F. Food Supplies

18.F.1. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of 48 hours to meet the requirements of the planned menu shall be kept on the premises at all times.

18.F.2. Records of all food purchased shall be retained by the facility for three years.

18.F.3. The facility must procure food from sources approved or considered satisfactory by Federal, State or local authorities. The use of second grade or outdated products, unlabeled canned goods, railroad salvage, and similar foods is prohibited.

18.F.4. Hermetically sealed food shall be obtained from a regulated food processing establishment.

18.F.5. Fluid milk and fluid milk products used or served shall be pasteurized.

18.F.6. Milk served to residents for drinking shall be served in the following manner:

a. In an original single serving container; or

b. From the original container to the residents' glass at meal time; or
c. The glass filled at meal time from a sanitary bulk milk dispenser.

18.F.7. No reconstituted powdered milk or evaporated milk shall be served for drinking.

18.F.8. Dry powdered or evaporated milk may be used in cooking or may be added to milk from the dairy as a high protein supplement.

18.F.9. Only clean whole eggs, with shell intact and without cracks or checks; or pasteurized liquid, frozen or dry eggs or pasteurized dry egg products shall be used. Hard-boiled, peeled eggs, commercially prepared and packaged, may be used. Eggs shall be refrigerated at all times and no raw eggs shall be used in uncooked products.

18.F.10. Fresh and frozen shucked shellfish (oysters, clams or mussels) shall be obtained in non-returnable packages legibly bearing the processor’s name, address and authorized certification number.

18.F.11. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used.

18.F.12. Sulfites may not be added to raw or cooked fruits or vegetables, nor monosodium glutamate added to any food prepared in the facility.

18.G. Food Storage and Protection

18.G.1. Food shall be stored, prepared, served, transported, and distributed with protection at all times from potential contamination including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, leakage and condensation.

18.G.2. Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean and sanitized container and be labeled and dated.

18.G.3. Only containers specifically made for food storage shall be used. They shall be in good condition and maintain the safety and integrity of the contents.

18.G.4. Containers of food shall be stored at least six inches above the floor, on clean racks, dollies or other clean surfaces, in such a manner as to be protected from splash and other contamination.

18.G.5. Poisonous and toxic materials shall be labeled and stored in a secured area separate from food, food preparation areas, and clean equipment and utensil storage.

18.G.6. Food not subject to further washing or cooking before serving shall be protected against contamination from food requiring washing or cooking.

18.G.7. Hermetically sealed cans once opened shall not be used for storage of food. Exception: Shell stock and shucked shellfish shall be kept in the original container in which they were received until they are used. Hermetically sealed packages shall be handled so as to maintain product and container integrity.
18.G.8. Unserved foods from previously prepared menus must be discarded after thirty-six (36) hours. Foods that may be frozen safely, such as meat, may be frozen, retained and used according to accepted timeframes for such processes.

18.G.9. Food shall not be stored with drugs or laboratory specimens. 18.G.10. All dented cans of food must be removed from the food storage area and may not be used for resident consumption.

18.H. Refrigerator and Freezer

18.H.1. A thermometer accurate to +3 degrees Fahrenheit shall be located inside each refrigerator, freezer, or other storage space used for potentially hazardous food(s).

18.H.2. Enough conveniently located refrigeration facilities shall be provided to assure that all food is stored at required temperatures.

18.H.3. The maximum temperature for the refrigerated storage of all perishable and potentially hazardous food and fluids shall be 41 degrees Fahrenheit or below.

18.H.4. Potentially hazardous food shall be cooled from 140 degrees Fahrenheit to 70 degrees Fahrenheit within two hours and from 70 degrees Fahrenheit to 41 degrees Fahrenheit within an additional four hours.

18.H.5. Frozen food shall be kept frozen and shall be stored at a temperature of 0 degrees Fahrenheit or below.

18.I. Hot Food Storage

Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature of 140 degrees Fahrenheit or above during storage and meal service.

18.J. Food Preparation

18.J.1. Hands shall be washed prior to any food preparation, whether or not disposable gloves are used. Hands shall be washed every time they become contaminated and after gloves are removed.

18.J.2. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance.

18.J.3. Standardized recipes that list clear descriptive procedures, portion yield and measures, shall be maintained and utilized and shall correspond to items on the posted menus.

18.J.4. Foods shall be cut, chopped or ground to meet individual needs.

18.J.5. Convenient and suitable serving and cooking utensils, such as forks, knives, tongs, spoons and scoops shall be provided and used to minimize direct manual contact with food at all points, where food is prepared.
18.J.6. Food shall be prepared on surfaces that have been cleaned and sanitized to prevent cross-contamination.

18.J.7. All raw fruits and vegetables shall be thoroughly washed to remove soil and other contaminants before being cut, combined with other ingredients, cooked or served.

18.J.8. Potentially hazardous frozen foods shall be thawed as follows:
   a. Under refrigeration at a temperature not to exceed 41 degrees Fahrenheit; or
   b. Under potable running water of a temperature of 70 degrees Fahrenheit, or below, with sufficient water velocity to agitate and float off loose particles into the overflow and for a period not to exceed that needed to thaw the products; or
   c. As part of a continuous cooking process using a microwave oven, a conventional cooking unit or a combination of cooking equipment.

18.J.9. All potentially hazardous food shall be kept at an internal temperature of 41 degrees Fahrenheit or below or at an internal temperature of 140 degrees Fahrenheit or above during service.

18.J.10. Potentially hazardous food that has been cooked and then refrigerated, and which is reheated for hot holding shall be reheated rapidly to 165 degrees Fahrenheit, or higher before being served or before being placed in a hot storage food facility.

18.J.11. Poultry, poultry products, pork, pork products, and stuffing containing raw poultry or pork shall be cooked to heat all parts of the food to 165 degrees Fahrenheit, or above.

18.J.12. Potentially hazardous ingredients such as mayonnaise and dairy products for foods that are in a form to be consumed without further cooking such as salads, sandwiches, filled pastry products and reconstituted foods shall have been chilled to 41 degrees Fahrenheit or below prior to preparation.

18.K. Food Service

18.K.1. Equipment shall be provided and procedures established to maintain food at safe temperatures during tray assembly. Hot foods shall leave the kitchen above 140 degrees Fahrenheit and cold food below 41 degrees Fahrenheit. Hot foods shall be hot and cold foods cold when they reach the resident.

18.K.2. During transportation, including transportation to another location for service, food and food utensils shall be protected from contamination.

18.K.3. At least three meals that are nutritious and suited to special needs of residents shall be served daily, at regular times comparable to normal meal times in the community. This schedule must be modified if necessary to accommodate the individual needs of residents. If a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day, if a resident group agrees to this meal span, and a nourishing snack is served. A “nourishing snack” is defined as an offering of items, single or in combination, from the basic food groups. Adequacy of the “nourishing snack”
will be determined both by resident interviews and by evaluation of the overall nutritional status of residents in the facility (e.g., Is the offered snack usually satisfying?).

18.K.4. Food shall be palatable and attractively served in appropriate portions and in a form designed to meet individual needs.

18.K.5. Substitutes of similar nutritive value shall be offered if a resident refuses food served.

18.K.6. Service at a table in a dining area, other than a bedroom, shall be encouraged for all who can and will eat at a table, including wheelchair residents.

18.K.7. All residents seated at the same table shall be served at the same time.

18.K.8. Food shall be served on dishes and shall not be in direct contact with trays.

18.K.9. Trays, when used, shall rest on firm supports such as overbed tables for bedfast residents. Sturdy tables of proper height shall be provided for residents able to be out of bed.

18.K.10. Residents needing special equipment, implements, or utensils to assist them with eating, shall have such items provided.

18.K.11. Employees and guests eating meals and snacks shall do so in an area separate from the food preparation, tray service, and dishwashing areas.

18.K.12. Animals shall be excluded from the food preparation area at all times and the dining room during the preparation and service of food.

18.L. Cleaning, Sanitization and Storage of Equipment and Utensils

18.L.1. Cleaning Frequency

a. Kitchenware, tableware, utensils, and food-contact surfaces of equipment used in the storage, preparation, service, transportation or distribution of food shall be maintained in a clean and sanitary manner.

b. Kitchenware, tableware, and utensils shall be allowed to drain and air-dry in racks or baskets on a nonabsorbent surface after being washed, rinsed and sanitized.

c. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil.

d. Non-food-contact surfaces of all equipment shall be cleaned at such frequency as is necessary to be free of accumulations of dust, dirt, food particles and other debris.

e. Cloths used for wiping food spills on kitchenware or food-contact surfaces of equipment shall be cleaned and rinsed frequently in a sanitizing solution.
f. Ice scoops shall be kept in a firm container of stainless steel, impervious plastic or fiberglass. The container and ice scoop shall be washed and sanitized daily. The handles of ice scoops shall not come in contact with the ice.


a. Prior to washing, all equipment and utensils shall be preflushed, prescraped or presoaked to remove gross food particles and soil.

b. Equipment and utensils shall be thoroughly washed in a detergent solution having a temperature of at least 110 degrees Fahrenheit, and then shall be rinsed free of such solution. All eating and drinking utensils and, where required, the food-contact surfaces of all other equipment and utensils shall then be sanitized by one of the following methods:

1. Immersion for at least one-half minute in clean hot water at a temperature of at least 170 degrees Fahrenheit.

2. Immersion for at least one minute in a clean solution containing at least fifty parts per million of available chlorine as a hypochlorite and at a temperature of at most 75 degrees Fahrenheit.

3. All chemicals used for sanitizing shall have complete instructions for use kept in the cleaning area.

c. When chemical sanitizing solutions are used for either manual or mechanical sanitization, procedures for testing shall be provided and used to measure the residual of the sanitizing chemical solution used at least daily.

18.L.3. Mechanical Cleaning and Sanitizing

a. Warewashing machines and their auxiliary components shall be operated in accordance with manufacturers’ instructions and procedures for testing shall be provided and used.

b. When chemicals are relied upon for sanitization, they shall be applied in such concentration and for such a period of time as to provide effective bactericidal treatment of the equipment and utensils:

1. The temperature of the wash water shall not be less than 120 degrees Fahrenheit.

2. Chemicals added for sanitization purposes shall be automatically dispensed.

3. The chemical sanitizing rinse water temperature shall be the temperature specified by the machine manufacturer.

c. Dishwashing racks, when not in use, shall be stored in a clean area off the floor.

18.L.4. Equipment and Utensil Handling and Storage

a. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Tableware shall be handled without contact with inside surface or surfaces that contact the user’s mouth.
b. Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in an enclosed, clean, dry location and protected from contamination by splash, dust, and other means. Equipment and utensils shall not be placed under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

c. Cleaned utensils shall be stored covered, inverted or appropriately stored on utensils racks.

d. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee, resident or user.

e. All tableware, kitchenware, and utensils shall be in good repair and be free of stains, breaks, cracks, chipped places, corrosion and open seams.

18.M. Garbage and Rubbish

18.M.1. Containers

All waste not disposed of by mechanical means shall be kept in containers constructed of durable metal or other approved types of material which do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers. All containers shall be provided with tight-fitting lids or covers.

18.M.2. Storage

a. Garbage and rubbish containing food waste while in the kitchen shall be stored so as to be inaccessible to vermin.

b. Storage rooms or enclosures shall be constructed of easily cleanable, washable materials and shall be vermin proofed.

c. Garbage containers and returnable/recyclable materials shall be stored outside the facility, either on a sealed and easily cleanable concrete slab, dense sealed bituminous surface, or a rack which is at least six (6) inches above the ground.

d. Storage areas shall be clean, and kept free of litter.

e. All storage containers shall be insect-tight, easily cleanable and adequate for the proper storage of all garbage and rubbish.

f. The premises of the facility shall be kept free of litter and dirt.

g. Refuse storage bins shall be maintained in a safe and sanitary condition.

18.M.3. Disposal

a. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or rubbish is prohibited.
b. All garbage and rubbish shall be removed from the kitchen at least daily, and from the premises as frequently as necessary, but at least weekly. Where municipal or private disposal services are not available, the facility shall dispose of the refuse by transportation to a disposal site approved by the local community involved, or by the State.

c. Janitor’s Closet

All facilities or new kitchen areas for which construction was started after July 1, 1994 shall have a separate janitor’s closet for floor cleaning equipment to be used for the dietary service area. All facilities shall have designated floor cleaning equipment for the dietary service area.

18.N. Dietary Areas

18.N.1. Kitchen Area

a. Size and Segregation

Kitchens shall be segregated from other areas and large enough to allow for adequate equipment to prepare and care for food properly.

b. Floors

Floors shall be waterproof and smooth with easily cleanable surfaces.

c. Walls

All wall surfaces shall be smooth and non-porous.

d. Ceilings

Ceilings shall be sound and heat insulated when located beneath a resident area.

e. Ventilation

Ventilation must be provided to maintain food integrity and reasonable comfort of the staff. All doors, windows and fans shall be placed so that air flow is not directed at food. Outside ventilation openings shall be screened.

f. Sewer Lines

Sewer lines in food storage, preparation and service areas must have anti-backflow devices and must be enclosed.

18.N.2. Equipment

a. Dietary areas shall be appropriately and adequately equipped for food storage, preparation, service, transportation and distribution.

b. Installation
All equipment and appliances shall be installed to permit thorough cleaning of the equipment, the floors and the walls around them.

c. Warewashing

A warewashing machine shall be required in each facility. All facilities or new dietary areas for which construction is started after the effective date of these regulations shall provide a dishwashing area separated from the food preparation and serving areas by at least a four (4) foot high partition. An easily readable thermometer shall be provided in each tank of the dishwashing machine which will indicate to an accuracy of +3 degrees Fahrenheit, the temperature of the water or solution therein.

d. Sinks

All new facilities or facilities proposing major renovations shall have a three compartment warewashing sink (at least 12 inches deep) and a separate hand washing sink conveniently available.

18.N.3. Storage

a. Dry Storage

Sufficient dry storage space that is ventilated and accessible to the kitchen shall be provided.

b. Kitchenware, Tableware, and Utensils

Space that is protected from potential contamination shall be provided for the storage of kitchenware, tableware and utensils.

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10.07.02.13 Dietetic Services.

A. Services Provided. Services may be provided directly by the facility or the facility may contract with a food management company, a caterer, or another facility. The facility and the food management company (or caterer or facility providing service) shall comply with these regulations. Food service personnel shall comply with COMAR 10.15.03 Food Service Facilities.

B. Supervision.

(1) In facilities exceeding 50 beds, overall supervisory responsibilities for the dietetic service shall be assigned to a full-time qualified dietetic service supervisor. It shall be the
responsibility of the supervisor to delegate relief duties to a person qualified to serve as relief. (See Supportive Personnel, Regulation .07J, above.)

(2) In facilities with 26-50 beds, exceptions may be made by the Department to allow the supervisor to share cooking responsibilities with the full-time cook.

(3) In facilities with 25 beds or fewer, responsibility may be assigned to the full-time cook.

(4) If a facility can demonstrate that because of the experience and training of its personnel and the physical layout and equipment, less supervisory personnel is required, the Department may modify the above requirements for supervision.

C. Consultation.

(1) If the supervisor is not a dietitian, the individual shall receive regularly scheduled consultation from a registered dietitian or other qualified person. In all instances sufficient consultation shall be provided to fulfill all required responsibilities.

(2) There shall be a signed agreement between the facility and the consultant dietitian specifying hours and frequency of service responsibilities, and registration number if applicable.

(3) Consultation services shall be documented by written reports.

D. Staffing.

(1) A sufficient number of food service personnel shall be employed to carry out efficiently the functions of the dietetic service and meet the dietary needs of the patient.

(2) Working hours shall be scheduled to insure that the dietetic needs of the patients are met.

(3) Nursing, housekeeping, laundry, or other personnel may not be utilized as dietetic staff. Exceptions may be made only upon the written approval of the Department. The kitchen may not be used for any purpose other than the preparation of food.

E. Adequacy of Diet. The food and nutritional needs of patients shall be met in accordance with physicians' orders. To the extent medically possible, the current "Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences", adjusted for age, sex, and activity shall be observed.

[Agency Note: The "Diet Manual for Long-Term Care Patients" as published by the Department, which contains food allowances and guides for regular and therapeutic diets may be used.]

F. Therapeutic Diets. Therapeutic diets shall be planned, prepared, and served as prescribed by the attending physician:

(1) Therapeutic diets shall be planned by a registered dietitian or other qualified person;

(2) Preparation and serving shall be supervised by a qualified dietetic supervisor;
(3) A current diet manual shall be available to medical, nursing, and dietetic staff.

G. Frequency and Quality of Meals. At least three meals or their equivalent shall be served daily, at regular times with not more than 14-hour intervals between the substantial evening meal and breakfast. A substantial evening meal is an offering of three or more menu items at one time, one of which includes a high quality protein such as meat, fish, eggs, or cheese. This meal represents no less than 20 percent of the day's total nutritional requirements. To the extent medical orders permit, bedtime nourishments shall be offered routinely to all patients. If the four-or five-meal-a-day plan is used, the meal pattern to provide this plan shall be approved by the Department.

H. Advance Planning and Posting of Menus. Menus shall be written at least 1 week in advance. The current week's basic menu shall be posted in one or more easily accessible places in the dietetic service department and in the patient area.

I. Menus Served as Planned. Food sufficient to meet the nutritional needs of patients shall be prepared as planned for each meal. When menu changes are necessary, substitutions shall provide equal nutritional value.

J. Retention of Records. Menus as served and records of food purchased for consumption by patients shall be filed on the premises for a period of 30 days.

K. Preparation of Food. Foods shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at proper temperatures, in a form to meet individual needs. Standardized recipes adjusted to appropriate yield shall be followed. Standardized recipes are those recipes which have been tested by the facility or another source which assure consistency in quality and quantity.

10.07.02.32 Dietetic Service Area.

A. Food Service Department. The location of the food service area shall be approved by the Department. A facility which holds full licensure as of the adoption of these regulations shall be considered as having an appropriately located food service area. A catered or satellite system shall be covered by a contract approved by the Department.

B. Outside Service Entrance. A convenient outside service entrance shall be planned to facilitate receiving food supplies and the disposal of waste.

C. Restriction—Entry to Kitchen or Serving Pantry. A toilet room or sleeping room may not open directly into any kitchen or serving pantry.

D. Limitations on Use of Kitchen. The kitchen may not be used as a passageway. It shall be used for no other purpose than activities connected with food service.
(1) New Construction. A janitor’s closet or service alcove for exclusive use of food service areas shall be provided in, or adjacent to, the dietetic service department. It shall be equipped with a utility sink, storage shelves, and a rack for hanging brooms and mops.

(2) Existing Facility. A utility sink shall be provided within reasonable distance from the food service department for its use, but it may be shared with other activities. Space near the utility sink shall be provided for the storage of brooms, mops, and cleaning materials. Space. There shall be sufficient floor space in the food service department to permit all activities to function efficiently without overcrowding.

(1) New Construction. New construction providing a conventional type food service program shall have the following minimal space requirements (excluding bulk food-storage areas, dining areas, and separate floor pantries). Modification of the following minimum space will be made in the event that the facility can demonstrate that the use of convenience food, disposables, or equipment, require less space for operation. However, once a facility elects to use these procedures or systems and a modification is granted, the systems may not be changed without prior approval of the Department. The Department in these cases may require additional space to be provided.

Homes’ Licensed Capacity for Patients Minimum Space

(a) 2 to 10 120 square feet.

(b) 11 to 35 132 square feet plus 12 square feet per licensed bed in excess of 11.
430 square feet plus 10 square feet per licensed bed in excess of 36.
1,070 square feet plus 8 square feet per licensed bed in excess of 100. (2) Renovations of existing kitchens shall be approved by the Department which will consider modification of the minimum space requirement based on space available, costs, and type of service.

(3) Aisle space between working areas shall be at least 3 feet; main traffic shall be at least 5 feet.

(4) Ceiling height shall be at least 9 feet.

[Agency Note: 10 foot ceiling height is recommended.]

(5) Existing Facility. A facility which holds full licensure as of the adoption of these regulations shall be considered as having an adequate size dietetic service department.

(6) If the licensed capacity of a facility is increased, or meals are provided to anyone outside of the facility from the food service area of the facility, the facility shall provide additional food service area in accordance with §F(1), (3), and (4) of this regulation. The additional food service area required when meals are provided to anyone outside of the facility is to be calculated by using the total number of individuals to whom meals are provided.

(7) The kitchen space requirement in §F(6) of this regulation does not apply to occasional special functions such as picnics or dinners for residents, volunteers, families, or community groups provided the facility certifies to the Department that the provision of meals for the particular special function will not adversely affect or detract from the timely provision of meals to the residents of the facility.

E. Janitor’s Closet or Service Area.

(1) New Construction. A janitor’s closet or service alcove for exclusive use of food service areas shall be provided in, or adjacent to, the dietetic service department. It shall be equipped with a utility sink, storage shelves, and a rack for hanging brooms and mops.

G. Floor Pantries—New Construction.

(1) In a decentralized food service, the area or areas for floor pantries shall be approved by the Department.

(2) This area shall be of sufficient size to accommodate the equipment required for food preparation and service.

[Agency Note: The following equipment is recommended:

(a) Equipment to maintain food at correct temperature;
(b) Toaster;
(c) Hot plate;
(d) Refrigerator;
(e) Ice-making machine or ice-storage container;
(f) Work space for tray preparation;
(g) Equipment for delivery of completed trays;
(h) Three-compartment sink or dishwasher;
(i) Cabinet for dry storage and supplies;
(j) Storage for trays, tableware, flatware, and utensils;
(k) Hand washing sink with soap and towel dispenser or approved drying device.]

(3) At least one nourishment pantry convenient to the nursing station shall be provided on each floor in facilities using a centralized food service system. Minimum equipment shall include the following:

(a) Refrigerators;
(b) Cabinets for dry storage and supplies;
(c) Work space;
(d) Sink for purposes other than hand washing;
(e) Hand washing sink with soap and towel dispenser or approved drying device.

H. Equipment for Food Preparation and Distribution. The following requirements shall be met:

(1) Adequate equipment for preparation, serving, and distribution of food shall be provided;
(2) A dumbwaiter, elevator, or ramp shall be provided in a facility of more than one story where more than eight patients, above or below the kitchen level, receive bedside tray service;
(3) Equipment to protect food from dust or contamination and to maintain food at proper temperature shall be provided for transportation of food to the patients.

I. Dry Food Storage. The following requirements shall be met:

(1) Adequate space shall be provided for the storage of food supplies;

Agency Note: The amount of storage space needed is dependent upon frequency of deliveries. It is recommended that 2 square feet per patient be provided and that the area be located within easy access to the receiving area and the kitchen.
(2) The storeroom shall be cool and well ventilated;
(3) All food supplies shall be stored off the floor and away from the wall to allow for cleaning.
[Agency Note: Care should be exercised in the rotation of stored food so that old stock is used first.]

J. Refrigerated Storage. Adequate refrigerated storage, refrigerators and frozen food storage cabinets, shall be provided which are regulated to maintain temperatures prescribed in COMAR 10.15.03 Food Service Facilities

10.07.02.41 Paid Feeding Assistants.

A. A facility may use a paid feeding assistant who has successfully completed a State approved training course as described in §E of this regulation.

B. Supervision.

(1) A paid feeding assistant shall work under the supervision of a licensed nurse.

(2) In an emergency, when the resident is fed in the resident's room, a paid feeding assistant shall use the resident call system to call a supervisory nurse for help.

C. A facility that uses a paid feeding assistant shall ensure that the paid feeding assistant feeds only residents who do not have complicated feeding conditions including, but not limited to:

(1) Difficulty swallowing;

(2) Choking;

(3) Recurrent lung aspirations; or

(4) Tube or parenteral intravenous feedings.

D. Protocol. The facility shall develop a protocol for selecting residents who are appropriate for feeding by a paid feeding assistant. The facility shall select a resident based on the:

(1) Charge nurse’s current assessment of the resident;

(2) The resident's latest Minimum Data Set (MDS) assessment; and

(3) The resident's plan of care.

E. State-Approved Training. A State-approved training course for paid feeding assistants shall consist of at least 8 hours of training that includes:

(1) Feeding techniques;

(2) Assistance with feeding and hydration;

(3) Communication and interpersonal skills;
(4) Appropriate responses to resident behavior;
(5) Safety and emergency procedures, including the Heimlich maneuver;
(6) Infection control;
(7) Resident rights;
(8) Recognizing changes in a resident's behavior that are inconsistent with the resident's normal behavior and the importance of reporting these changes to a supervisory nurse; and
(9) Successful completion of a two-part test that includes a:
(a) Written test with a passing score of 80 percent; and
(b) Demonstration of proper feeding skills performed on a resident under observation.
F. The feeding assistant training may be taught by a:
(1) Registered nurse and supplementary professional instructors;
(2) Licensed dietitian-nutritionist;
(3) Licensed physical therapist;
(4) Licensed speech therapist; or
(5) Licensed occupational therapist.
G. The facility shall maintain a record of all paid feeding assistants who have successfully completed a feeding assistance course.

MASSACHUSETTS

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150.007: Nursing Services

...(F) Dietary Supervision

...(2) Patients requiring assistance in eating shall receive adequate assistance. Help shall be assigned promptly upon receipt of meals, and adaptive self-help devices shall be provided when necessary.

150.009: Dietary Service
A) All facilities shall provide adequate dietary services to meet the daily dietary needs of patients and residents in accordance with written dietary policies and procedures.

1) Dietary services shall be directed by a food service supervisor and shall be organized with established lines of accountability and clearly defined job assignments.

2) Dietary services shall be provided directly by the facility, or facilities may contract with an outside food company provided the facility and the food company comply with 105 CMR 150.000; provided the facility or the company has a qualified dietician who serves, as required in 105 CMR 150.000; and provided the facility and the dietician provide for continuing liaison with physicians and the nursing staff.

B) All facilities shall provide sufficient numbers of adequately trained personnel to plan, prepare and serve the proper diets to patients or residents.

1) A full or part-time dietician shall be employed to direct and supervise the dietary services or there shall be a written agreement with a dietician on a consultant basis to provide these services.

a) Facilities that provide Level I or II care shall provide a dietician for a minimum of four hours a week for a single unit and an additional two hours per week for each additional unit.

b) Facilities that provide Level III care shall provide a dietitian for a minimum of two hours per week for each unit.

c) Facilities that provide Level IV care shall have an arrangement for the provision of dietary services as needed.

d) The visits of the dietitian shall be of sufficient duration and frequency to provide consultation, evaluation and advice regarding dietary personnel, menu planning, therapeutic diets, food production and service procedures, maintenance of records, training programs and sanitation.

e) A written record shall be kept on file in the facility of dates, time, services rendered and recommendations made by the consultant.

2) Facilities that provide Level I, II, or III care shall provide a fulltime food service supervisor. He may be the cook or the chef, but he shall spend a portion of his time in management functions. Facilities that provide Level IV care shall provide a cook as needed to meet residents’ dietary needs.

a) The food service supervisor shall be responsible for supervising food service personnel, the preparation and serving of food and the maintenance of proper records.

b) There shall be proper supervision of the dietary service during all hours of operation. When the food service supervisor is absent during hours when other food service personnel are on duty, a responsible person shall be assigned to assume his job functions.
3) All facilities shall employ a sufficient number of food service personnel and their working hours shall be scheduled to meet the dietary needs of the patients.
   
a) Food service employees shall be on duty over a period of 12 or more hours.
   
b) Food service employees shall be trained to perform assigned duties.
   
c) In facilities that provide Level I or II care, food service employees shall not regularly be assigned to duties outside the dietary department.
   
d) Work assignments and duty schedule shall be posted and kept current.
   
e) All dietary personnel (including tray servers) shall be 16 years or age or older.
   
4) All food service personnel shall be in good health, shall practice hygienic food handling techniques and shall conform to 105 CMR 590.000: State Sanitary Code Article X- Minimum Sanitation Standards for Food Service Establishments.
   
a) All food services personnel shall wear clean, washable garments, shoes, hairnets or clean caps, and keep their hands and fingernails clean at all times.
   
b) Personnel having symptoms of communicable disease, including acute respiratory infections, open infected wounds, or known to be infected with any disease in a communicable form or in a carrier state, shall not be permitted to work.
   
c) Employees shall not use tobacco in any form while engaged in food preparation or service, or while in equipment washing, food preparation or food storage areas.
   
C) Therapeutic diets
   
1) All facilities that accept or retain patients or residents in need of special or therapeutic diets shall provide for such diets to be planned, prepared and served as prescribed by the attending physician, physician-physician assistant team or physician-nurse practitioner team.
   
2) All therapeutic diets shall be planned, prepared and served with consultation from a dietician.
   
3) All therapeutic diets shall be prescribed, dated and signed by the physician, physician assistant or nurse practitioner and shall be precise as to the specific dietary requirements or limitations.
   
4) A current diet manual shall be readily available to attending physician or physician-physician assistant team or physician-nurse practitioner team, dietary service personnel and the supervisor of the nursing services. There shall be evidence from the diets served that the manual is used and related to posted diets.
   
5) All persons responsible for therapeutic diets shall have sufficient knowledge of food values to make appropriate substitutions when necessary. All substitutions made on the Master Menu for therapeutic diets shall be recorded in writing (105 CMR 150.007 (F)).
6) The dietician and food service supervisor in conjunction with the nursing staff and other relevant personnel shall review therapeutic diets (with particular attention to their acceptance by the patient) and shall make appropriate recommendations to the attending physician or physician-physician assistant team or physician-nursing practitioner team and other staff. Therapeutic diets shall be reviewed in facilities as follows:

a) Level I and II, at least every 30 days and more frequently if indicated.

b) Level III, at least every three months.

c) Level IV, at least every three months.

7) All therapeutic diet menus shall be approved by the dietician and kept on file for at least 30 days.

8) Patients to whom therapeutic diets are served shall be identified in the dietary records.

D) Adequacy of diets

1) All diets shall conform to physician's or physician assistant's or nurse practitioner's orders and, to the extent medically possible, shall meet the dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity. for adults shall be based on the following:

a) Milk: Two or more cups as beverage or in food preparation.

b) Meat Group: Two or more servings of beef, veal, pork, lamb, poultry, fish, cheese or eggs; occasionally, cooked dry beans, dry peas or peanut butter may be served as alternates.

c) Vegetable and Fruit Group: Four or more servings a day including: a citrus fruit or other fruit for Vitamin C; a dark green or deep yellow vegetable for Vitamin A at least every other day; other vegetables and fruits including potatoes. Fruit flavored beverages with or without vitamins added shall not be considered any part of a fulfillment of 105 CMR 150.099 (D).

d) Bread and Cereals: Four or more servings of whole grain, enriched or restored.

e) Other foods to round out meals and snacks for individual appetites and to provide for growth and energy requirements.

E) Quality of food

1) At least three meals that are nutritious and suited to special needs of patients and residents shall be served daily.

2) Meals shall be served at regular times, with not more than a 15-hour span between a substantial evening meal and breakfast. Breakfast shall not be served before 7:00 a.m.; the evening meal shall not be served before 5:00 p.m. When a five-meal plan is in effect, the main evening meal shall not be served before 4:00 p.m.
3) Appropriate between-meals snacks and bedtime nourishment shall be offered to each patient or resident.

4) Whether a three, four or five-meal-a-day plan is in effect, meals and snacks shall provide nutritional value equivalent to the daily food guide (105 CMR 150.009(D)(2)).

5) Only pasteurized fluid milk and fluid milk products shall be used or served; dry milk products may be used for cooking purposes only.

6) All milk and milk products for drinking purposes shall be served from the original container or from a sanitary milk dispenser. Milk served from a dispenser shall be homogenized.

7) Cracked or dirty eggs shall not be used. Egg nog shall be pasteurized. Eggs shall be refrigerated at all times.

F) Planning of menus and food supplies

1) Menus shall be planned and written at least one week in advance. The current week's menus, including routine and special diets, and any substitutions or changes made shall be posted in one or more conspicuous places in the dietary department.

2) Records of menus as served shall be filed and maintained for at least 30 days.

3) Daily menus shall provide for a sufficient variety of foods, and no daily menu shall be repeated twice in one week.

4) Menus shall be adjusted for seasonal changes, and shall reflect dietary restrictions or preferences. Appropriate special menus shall be planned for holidays and birthdays.

5) An adequate supply of food of good quality shall be kept on the premises at all times to meet patient or resident needs. This shall mean supplies of staple foods for a minimum of one-week period and of perishable foods for a minimum of 48 hours.

6) All food shall be maintained at safe temperatures. Food that is stored in a freezer shall be wrapped, identified and labeled with the date received and shall be used within the safe storage time appropriate to the type of food and the storage temperature. If not used within an appropriate time limit, the food shall be discarded.

7) Records of food purchased and a perpetual inventory of food supplies shall be kept on file.

8) Menus shall be planned and food supplies maintained so that a nutritionally adequate alternate meal can be proved at all times. Alternate meal plans shall be varied at least every week and posted with other menus.

9) All facilities shall plan and post a Disaster Feeding Plan and staff shall be familiar with it. This plan shall include alternate methods and procedures to be used when equipment is not operable, including proper sanitation of dishes and utensils.

G) Preparation and serving of food
1) All foods shall be prepared by methods that conserve the nutritive value, flavor and appearance.

2) All file of tested recipes, adjusted to appropriate yield, shall be maintained, shall be utilized in preparing food and shall correspond to items on the posted menus.

3) Foods shall be cut, chopped, ground or blended to meet individual needs.

4) House diets shall be appropriately seasoned in cooking and this shall include salt.

5) Convenient and suitable utensils, such as forks, knives, tongs, spoons, or scoops, shall be provided and used to minimize direct handling of food at all points where food is prepared or served.

6) Equipment shall be provided and procedures established to maintain food at a proper temperature during serving and transportation. Hot foods shall be hot, and cold foods cold, when they reach the patient or residents.

7) Food shall be served in a home-like, pleasant, clean, relaxing and quiet atmosphere.

8) Individual tray service shall be provided for patients or residents who are unable to leave their rooms or who do not wish to eat in the dining room.

9) Trays.
   a) Food shall be served on dishes and shall not be in direct contact with trays.
   b) Trays shall be washable and of a type that can be sanitized.
   c) Flat trays shall be served with a washable or disposable tray mat.
   d) Trays shall be large enough to accommodate all the dishes necessary for a complete meal, arranged and served attractively.
   e) Trays set up in advance of meal time shall be adequately covered to prevent contamination and shall not contain perishable food.
   f) Trays shall be stored in a clean and sanitary manner.
   g) There shall be a tray tag in a holder in each tray.
   h) Trays shall rest on firm supports such as overbed tables for bedfast patients or sturdy tables or tray stands of proper height for patients able to be out of bed. T.V. tray stands are not permitted.

10) The main meals of a day -- morning, noon and evening shall be attractively served on non-disposable dinnerware of good quality, such as ceramic, china, chinaglass, glass, ironstone, melamine plastic or other materials that are durable and aesthetically pleasing.

11) An adequate supply of trays, glassware, dishes, and flatware for individual
patient or resident use shall be available at all times. Discolored, chipped or cracked dishes, glassware or trays shall not be used. Flatware of good quality shall be provided and kept in good condition.

(12) At the main meal, the main course shall be served on a dinner plate at least eight inches in diameter or its equivalent.

(13) Clean napkins shall be provided for all patients or residents at all meals, between-meal snacks and bedtime nourishment.

H) Single service disposable dishes, cups or cutlery shall not be used except as follows:

1) On a regular basis: only for between meal food services; in the preparation of individual servings of gelatin desserts, gelatin salads and puddings; in serving fruit juices, vegetable juices, milk, water and plastic holders with disposable inserts for use with hot beverages; and in serving relishes, jellies, condiments and seasonings.

2) On a temporary basis: for individual with an infectious illness, or when kitchen areas are being remodeled, providing that prior approval for use over a specified period of time has been received from the Department.

3) Disposable single service items shall comply with the following:

a) Cups, dishes, and bowls shall be made of non-absorbent materials such as molded or formed plastic and coated paper.

b) Single service items shall be rigid and sturdy.

c) Single service items shall be coordinated according to color and design and shall be aesthetically appealing.

d) Disposable flatware shall be full sized and heavy weight.

e) Single service items shall be used only once and then discarded.

f) All single service items shall be stored according to the manufacturer’s instructions and handled and dispensed in a sanitary manner.

I) Dietary and food sanitation

1) Sanitary conditions shall be maintained in all aspects of the storage, preparation and distribution of food.

2) All utensils, equipment, methods of cleaning and sanitizing storage of equipment or food, the habits and procedures of food handlers, rubbish and waste disposal, toilet facilities and other aspects of maintaining healthful, sanitary and safe conditions relative to food storage, preparation and distribution shall be in compliance with local health codes and 105 CMR

3) Effective written procedures for cleaning, disinfecting and sanitizing all equipment and work areas shall be developed and followed consistently so that all equipment, including pots and pans, and work areas are clean and sanitary at all times.

4) Effective dishwashing techniques shall be used in all facilities. Kitchen workers shall be instructed in these and shall show evidence of knowing and practicing acceptable sanitary procedures.

5) All dishes, glasses and utensils used for eating, drinking, preparing and serving of food or drink shall be cleansed and sanitized after each use. After sanitization, all dishes shall be allowed to drain and dry in racks or baskets on a nonabsorbent surface. All facilities shall provide by January 1, 1972, an automatic dishwasher capable of handling the needs of the facility. In a dishwashing machine the temperature of the wash water shall be between 140°F and 160°F, with a final rinse at a temperature of 170°F or higher.

6) The food service area shall not be located in a thoroughfare, and traffic through the food service area shall be limited to authorized personnel.

7) Dry or staple food items shall be stored off the floor in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin.

8) Poisonous and toxic materials shall be stored in locked cabinets that are used for no other purpose, or in a place that is separate from all food storage areas, food preparation areas and clean equipment and utensils.

9) All perishable food, including milk and milk products shall be adequately refrigerated, stored in a sanitary manner and properly spaced for adequate refrigeration.

10) Mechanical refrigeration capable of storing perishable and frozen foods shall be provided in sufficient amount to meet the needs of the facility.

11) The maximum temperature for the storage of all perishable foods shall be 45°F. Freezers and frozen food compartments of refrigerators shall be maintained at or below minus 10 F.

12) A reliable thermometer shall be attached to the inside of each refrigerator, freezer. Frozen food compartment, storage space used for perishable food or beverages.

13) Food shall be transported from main kitchens to auxiliary kitchens and to patients in suitable containers or conveyors.

14) Written reports of inspections by state and local health authorities shall be kept on file in the facility with the notations made of action taken by the facility to comply with any recommendations.
15) If pre-prepared meals or meals prepared off the premises are used, dietary areas and equipment shall be designed to accommodate the requirements for safe and sanitary storage, processing and handling.

16) Auxiliary kitchens and dishwashing facilities located outside the main dietary area shall comply with the standards specific for the main kitchen and dietary area.

17) No drugs shall be stored in the same refrigerator with food, and drugs shall not be added to foods in the kitchen.

18) Easily shredded, abrasive materials, such as steel wool, shall not be used to clean food preparation equipment or utensils.

...20) Written procedures pertaining to the sanitary use of infant formula shall be developed. Protective nipple caps shall be removed only at the beginning of feeding; any unfinished formula left in a bottle at the time of feeding shall be disposed of immediately.

MICHIGAN

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PART 8. DIETARY SERVICES

R 325.20801 Supervisor of dietary or food services; qualifications.

Rule 801.

(1) Dietary or food services in a home shall be supervised by an individual who meets any of the following qualifications:

(a) Is registered by the commission on dietetic registration of the American dietetic association.

(b) Has completed all nutrition and related coursework necessary to take the registration examination required to become a registered dietitian.

(c) Is a graduate of a dietetic technician training program approved by the American dietetic association.

(d) Is a graduate of an approved correspondence or classroom dietetic assistant training program which qualified such person for certification by the hospital, institution, and educational food service society.
(e) Is a graduate of a dietetic assistant training program granted approved status by the Michigan department of public health before July 6, 1979.

(2) When the dietary or food services supervisor is other than a registered dietitian, the supervisor shall receive routine consultation and technical assistance from a registered dietitian (R.D.). Consultation time shall not be less than 4 hours every 60 days. Additional consultation time may be needed based on the total number of patients, incidence of nutrition-related health problems, and food service management needs of the facility.

History: 1981 AACS; 1983 AACS.

R 325.20802 Policies and procedures.

Rule 802. There shall be written policies and procedures for food storage, preparation, and service; written job descriptions for dietary personnel; and in-service training for dietary personnel.

History: 1981 AACS.

R 325.20803 Nutritional needs of patients.

Rule 803. (1) Food and nutritional needs of a patient shall be met in accordance with the physician's orders in keeping with accepted standards of practice which includes most recent recommended daily dietary allowances of the food and nutrition board of the national research council adjusted for age, sex, and activity.

(2) Not less than 3 meals or their equivalent shall be served daily, at regular times, with not more than a 14-hour span between a substantial evening meal and breakfast, except that when a substantial snack is served after the evening meal, this time span may be increased to 14-3/4 hours.

(3) Therapeutic or special diets shall be provided upon written prescription or order of the physician.

(4) Supplementary fluids and special nourishments, as required, shall be provided.

(5) A meal shall be prepared and served in an appetizing and sanitary manner.

(6) A table or individual freestanding tray of table height shall be provided for a patient who is able to be out of bed to eat, but who does not go to a dining room.

History: 1981 AACS.

R 325.20804 Menus; posting; filing.
Rule 804. The menu for regular and therapeutic or special diets for the current week shall be posted in the dietary department and either in the patient dining room or a public place as defined in R 325.20104. Changes shall be written on the planned menu to show the menu as actually served. The menu as actually served to patients for the preceding 3 months shall be kept on file in the home.

History: 1981 AACS; 1983 AACS.

R 325.20805 Meal census; food record.

Rule 805. A meal census, to include patients, personnel, and guests, and a record of the kind and amount of food used for the preceding 3 months shall be kept on file in the home.

History: 1981 AACS.

R 325.20806 Food acceptance record.

Rule 806.

(1) The food acceptance of a patient shall be recorded as follows:

(a) For a period of 14 days immediately following admission.

(b) For a period of 14 days immediately following initiation of a change in diet, unless otherwise ordered by a physician.

(c) Under any other circumstances, such as abnormal weight loss, for a period ordered by a physician.

(2) Food acceptance records shall be retained in the facility.

History: 1981 AACS; 1983 AACS.

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4658.0530 ASSISTANCE WITH EATING.

Subpart 1. Nursing personnel. Nursing personnel must determine that residents are served diets as prescribed. Residents needing help in eating must be promptly assisted
upon receipt of the meals and the assistance must be unhurried and in a manner that maintains or enhances each resident's dignity and respect. Adaptive self-help devices must be provided to contribute to the resident's independence in eating. Food and fluid intake of residents must be observed and deviations from normal reported to the nurse responsible for the resident's care during the work period the observation of a deviation was made. Persistent unresolved problems must be reported to the attending physician.

Subp. 2. Volunteers. Volunteers may assist residents with eating if the following conditions are met:

A. the nursing home has a policy allowing that assistance. The policy must specify whether family members are allowed to assist their immediate relatives with eating and, if allowed, what training is required for family members;

B. the resident has been assessed and a determination made that the resident may be safely fed by a volunteer, and that is documented in the comprehensive plan of care;

C. the resident has agreed, or an immediate family member, the legal guardian, or designated representative has agreed for the resident, to be fed by a volunteer;

D. the volunteer has completed a training program on assisting residents with eating, which, at a minimum, meets the training and competency standards for eating assistance contained in the nursing assistant training curriculum;

E. the director of nursing services must be responsible for the monitoring of all persons, including family members, performing this activity; and

F. there are mechanisms in place to ensure appropriate reporting to nursing personnel of observations made by the volunteer during meal time.

Subp. 3. Risk of choking. A resident identified in the comprehensive resident assessment, and as addressed in the comprehensive plan of care, as being at risk of choking on food must be continuously monitored by nursing personnel when the resident is eating so that timely emergency intervention can occur if necessary.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 20 SR 303 Current as of 01/19/05

4658.0600 DIETARY SERVICE.

Subpart 1. Food quality. Food must have taste, aroma, and appearance that encourages resident consumption of food.

Subp. 2. Nutritional status. The nursing home must ensure that a resident is offered a diet which supplies the caloric and nutrient needs as determined by the comprehensive resident assessment. Substitutes of similar nutritive value must be offered to residents who refuse food served.
Subp. 3. Availability of diet manuals. The most recent edition of diet manuals must be readily available in the dietary department.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 19 SR 1803 Current as of 01/19/05

4658.0605 DIRECTION OF DIETARY DEPARTMENT.

Subpart 1. Dietitian. The nursing home must employ a qualified dietitian either full time, part time, or on a consultant basis. For purposes of this chapter, a "qualified dietitian" means a person who:

A. is registered by the Commission on Dietetic Registration of the American Dietetic Association;

B. is licensed under Minnesota Statutes, section 148.624; or

C. has a bachelor's degree in dietetics, food and nutrition, or food service management plus experience in long-term care and ongoing continuing education in identification of dietary needs, and planning and implementation of dietary programs.

Subp. 2. Director of dietary service. If a qualified dietitian is not employed full time, the administrator must designate a director of dietary service who is enrolled in or has completed, at a minimum, a dietary manager course, and who receives frequently scheduled consultation from a qualified dietitian. The number of hours of consultation must be based upon the needs of the nursing home. Directors of dietary service hired before May 28, 1995, are not required to complete a dietary manager course.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 19 SR 1803
Current as of 01/19/05

4658.0610 DIETARY STAFF REQUIREMENTS.

Subpart 1. Sufficient personnel. The nursing home must employ sufficient personnel competent to carry out the functions of the dietary service. "Sufficient personnel" means enough staff to plan, prepare, and serve palatable, attractive, and nutritionally adequate meals at proper temperatures and appropriate times.

Subp. 2. Health. The dietary staff must be free from symptoms of communicable disease and from open, infected wounds.
Subp. 3. Grooming. Dietary staff must wear clean outer garments. Hairnets or other hair restraints must be worn to prevent the contamination of food, utensils, and equipment. Hair spray is not an acceptable hair restraint.

Subp. 4. Hygiene. Dietary staff must thoroughly wash their hands and the exposed portions of their arms with soap and warm water in a hand washing facility before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, using the toilet, or handling soiled equipment or utensils. Dietary staff must keep their fingernails clean and trimmed.

Subp. 5. Tobacco use. Employees must not use tobacco in any form while on duty to handle, prepare, or serve food, or clean utensils and equipment.

Subp. 6. Eating. All employees must consume food only in areas designated for employee dining. An employee dining area must not be designated if consuming food in that location could cause contamination of other food, equipment, or utensils. This subpart does not apply to cooks or other persons designated by the cook who test the food for flavor and palatability.

Subp. 7. Sanitary conditions. Sanitary procedures and conditions must be maintained in the operation of the dietary department at all times.

Subp. 8. Food handling guide. A current copy of the department’s food handling guide entitled "Information for Food Service Personnel in Hospitals and Related Care Facilities" must be readily available for reference by all dietary personnel.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 19 SR 1803 Current as of 01/19/05

4658.0615 FOOD TEMPERATURES.

Potentially hazardous food must be maintained at 40 degrees Fahrenheit (four degrees centigrade) or below, or 150 degrees Fahrenheit (66 degrees centigrade) or above. "Potentially hazardous food" means any food subject to continuous time and temperature controls in order to prevent the rapid and progressive growth of infectious or toxigenic microorganisms.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431
HIST: 19 SR 1803; 21 SR 196 Current as of 01/19/05

4658.0620 FREQUENCY OF MEALS.

Subpart 1. Time of meals. The nursing home must provide at least three meals daily at regular times. There must be no more than 14 hours between a substantial evening meal and breakfast the following day. A "substantial evening meal" means an offering of three or
more menu items at one time, one of which is a high-quality protein such as meat, fish, eggs, or cheese.

Subp. 2. Snacks. The nursing home must offer evening snacks daily. "Offer" means having snacks available and making the resident aware of that availability.

Subp. 3. Time between meals. Up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group, such as the resident council, agrees to this meal span and a nourishing evening snack is provided.

Subp. 4. Dining room. Meals are to be served in a specified dining area consistent with the resident's choice and plan of care.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803; 21 SR 196

Current as of 01/19/05

4658.0625 MENUS.

Subpart 1. Menu planning. All menus must be planned in advance, dated, and followed. Any changes in the meals actually served must be of equal nutritional value. The general menu for a seven-day period must be posted prior to the start of that seven-day period at a location readily accessible to residents, and any changes to the general menu must be noted on that posted menu. All menus and any changes for the current and following seven-day periods must be posted in the dietary area. Records of menus and of foods purchased must be filed for six months. A variety of foods must be provided. A file of tested recipes adjusted to a yield appropriate for the size of the home must be maintained.

Subp. 2. Food habits and customs. There must be adjustment to the food habits, customs, likes, and appetites of individual residents including condiments, seasonings, and salad dressings. There must be resident involvement in menu planning.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803

Current as of 01/19/05

4658.0630 RETURNED FOOD.

Returned portions of food and beverages from individual servings may be reused if the food or beverage is served in a sealed wrapper or container which has not been unwrapped or opened and is not potentially hazardous.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431
4658.0635 CONDIMENTS.

Condiments, seasonings, and salad dressing for resident use must be provided in individual packages or from dispensers.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803

Current as of 01/19/05

4658.0640 MILK.

Fluid milk and fluid milk products used must be pasteurized and must meet Grade A quality standards in Minnesota Statutes, chapter 32. The milk must be dispensed directly from the original container in which it was packaged, shipped, and received. This container may be individual portions, mechanically refrigerated bulk milk dispenser, or a commercially filled container of not more than one gallon capacity. Dry milk may not be reconstituted and served as fluid milk. Dry milk may be added to fluid milk and other foods to increase nutrient density. Dry milk, dry milk products, and commercial nondairy products may be used in instant dessert and whipped products or for cooking and baking.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803

Current as of 01/19/05

4658.0645 ICE.

Ice must be stored and handled in a sanitary manner. Stored ice must be kept in an enclosed container. If the container is not mechanically cooled, it must be cleaned at least daily and more often if needed. If an ice scoop is used, the scoop must be stored separately to prevent the handle from contact with the ice.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803

Current as of 01/19/05
4658.0650 FOOD SUPPLIES.

Subpart 1. Food. All food must be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. Canned or preserved food which has been processed in a place other than a commercial food-processing establishment is prohibited for use by nursing homes.

Subp. 2. Food brought into nursing home. Nonprohibited food items from noncommercial sources such as fresh produce, game, and fish may be brought into the nursing home in accordance with nursing home policy.

Subp. 3. Food containers. Food, whether raw or prepared, if removed from the container or package in which it was obtained, must be stored in a clean, covered container. The container need not be covered during necessary periods of preparation or service.

Subp. 4. Storage of nonperishable food. Containers of nonperishable food must be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area. Containers may be stored on equipment such as dollies, racks, or pallets, provided the equipment is easily movable and constructed to allow for easy cleaning. Nonperishable food and containers of nonperishable food must not be stored under exposed or unprotected sewer lines or similar sources of potential contamination. The storage of nonperishable food in toilet rooms or vestibules is prohibited.

Subp. 5. Storage of perishable food. All perishable food must be stored off the floor on washable, corrosion-resistant shelving under sanitary conditions, and at temperatures which will protect against spoilage.

Subp. 6. Prohibited storage. The storage of detergents, cleaners, pesticides, and other nonfood items not related to the operation of the dietary service, including employees' personal items, is prohibited in food storage areas. The nursing home may store dry goods and paper products related to the dietary service in the food storage area.

Subp. 7. Vending machines. Storage and dispensing of food and beverages in vending machines must be in accordance with chapter 4626, and in accordance with any applicable local ordinances.

STAT AUTH: MS s 31.101; 31.11; 144.05; 144.08; 144.12; 144A.04; 144A.08; 157.011; 256B.431

HIST: 19 SR 1803; 23 SR 519

Current as of 01/19/05

4658.0655 TRANSPORT OF FOOD.
The food service system must be capable of keeping food hot or cold until served. A dumbwaiter or conveyor, which cab or carrier is used for the transport of food and soiled dishes, must be sanitized immediately after the transportation of soiled dishes is complete, and prior to the transporting of food. The dumbwaiter or conveyor, which cab or carrier is used for the transport of soiled linens, may not be used for the transport of food or soiled dishes.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431

HIST: 19 SR 1803

Current as of 01/19/05

4658.0660 FLOOR CLEANING AND TRASH.

Subpart 1. Cleaning during food preparation. There must be no sweeping or mopping in the food preparation or service areas of the kitchen during the time of food preparation or service, except when necessary to prevent accidents.

Subp. 2. Nondietary activity trash, restrictions. Trash or refuse unrelated to dietary activities must not be transported through food preparation areas or food storage areas for disposal or incineration.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431 HIST: 19 SR 1803

Current as of 01/19/05

4658.0665 DISHES AND UTENSILS REQUIREMENTS.

The requirements in items A to E apply to the use of dishes and utensils.

A. Only dishes and utensils with the original smooth finishes may be used. Cracked, chipped, scratched, or permanently stained dishes, cups, or glasses or damaged, corroded, or open seamed utensils or cookware must not be used. All tableware and cooking utensils must be kept in closed storage compartments.

B. Accessories for food appliances must be provided with protective covers unless in enclosed storage.

C. Enclosed lowerators for dishes are acceptable.

D. Clean spoons, knives, and forks must be touched only by their handles. Clean cups, glasses, bowls, plates, and similar items must be handled without contact with inside surfaces or surfaces that contact the user's mouth.
E. Dishes or plate settings must not be set out on the tables more than two hours before serving time.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431 HIST: 19 SR 1803

Current as of 01/19/05

4658.0670 DISHWASHING.

Subpart 1. Requirements. The dishwashing operation must provide separation in the handling of soiled and clean dishes and utensils, and must conform with either part 4658.0675 or 4658.0680 for washing, rinsing, sanitizing, and drying.

Subp. 2. Sanitization; storage. All utensils and equipment must be thoroughly cleaned, and food-contact surfaces of utensils and equipment must be given sanitization treatment and must be stored in such a manner as to be protected from contamination. Cleaned and sanitized equipment and utensils must be handled in a way that protects them from contamination.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431 HIST: 19 SR 1803

Current as of 01/19/05

4658.0675 MECHANICAL CLEANING AND SANITIZING.

Subpart 1. Generally. Mechanical cleaning and sanitizing must be done in the manner described by subparts 2 to 8.

Subp. 2. Cleaning and sanitizing. Cleaning and sanitizing may be done by spray-type or immersion utensil washing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans, sanitizes equipment and utensils, and meets the requirements of Standard No. 3, spray-type dishwashing machines, issued by NSF International, June 1982. This standard is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change. These machines and devices must be properly installed and maintained in good repair. Machines and devices must be operated according to manufacturers' instructions, which must be posted nearby. Utensils and equipment placed in the machine must be exposed to all washing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors must be properly installed and maintained.

Subp. 3. Drainboards. Drainboards must be provided and be of adequate size for the proper handling of soiled utensils before washing and for cleaned utensils following sanitization, and must be located and constructed so as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.
Subp. 4. Preparing to clean. Equipment and utensils must be flushed or scraped and, when necessary, soaked to remove gross food particles and soil before being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils must be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse water and that permits free draining.

Subp. 5. Chemical sanitization. Single-tank machines, stationary-rack machines, door-type machines, and spray-type glass washers using chemicals for sanitization may be used, provided that:

A. wash water temperatures, addition of chemicals, rinse water temperatures, and chemical sanitizers used are in conformance with NSF International Standard No. 3, incorporated by reference in subpart 2, and Standard No. 29, Detergent and Chemical Feeders for Commercial Spray-Type Dishwashing Machines, issued by NSF International, November 1992. These standards are incorporated by reference. They are available through the Minitex interlibrary loan system. They are not subject to frequent change;

B. a test kit or other device that accurately measures the parts per million concentration of the sanitizing solution must be available and be used, and a log of the test results must be maintained for the previous three months;

C. containers for storing the sanitizing agent must be installed in such a manner as to ensure that operators maintain an adequate supply of sanitizing compound; and

D. a visual or audible warning device must be provided for the operator to easily verify when the sanitizing agent is depleted.

Subp. 6. Hot water sanitization. Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water are kept clean and water is maintained at not less than the temperature specified by NSF International Standard No. 3, incorporated by reference in subpart 2, under which the machine is evaluated. A pressure gauge must be installed with a valve immediately adjacent to the supply side of the control valve in the final rinse line provided that this requirement does not pertain to a dishwashing machine with a pumped final rinse.

Subp. 7. Air drying. Dishes and utensils must be air dried before being stored or must be stored in a self-draining position. Properly racked sanitized dishes and utensils may complete air drying in proper storage places, if available.

Subp. 8. Cleaning of dishwashing machines. Dishwashing machines must be cleaned at least once a day, or more frequently if required, in accordance with the manufacturer's recommendation.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431 HIST: 19 SR 1803

Current as of 01/19/05
4658.0680 MANUAL CLEANING AND SANITIZING.

Subpart 1. Generally. Manual cleaning and sanitizing must be done in the manner described in subparts 2 to 9.

Subp. 2. Three compartment sink. For manual washing, rinsing, and sanitizing of utensils and equipment, a sink with at least three compartments must be provided and be used. Sink compartments must accommodate food preparation equipment and utensils, and each compartment of the sink must be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments must be washed manually or cleaned through pressure spray methods.

Subp. 3. Drainboards. Drainboards must be provided at each end for proper handling of soiled utensils before washing and for cleaned utensils following sanitizing and must be located so as not to interfere with the proper use of the utensil washing facilities.

Subp. 4. Preparing to clean. Equipment and utensils must be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

Subp. 5. Manual dishwashing process. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing must be conducted in the following manner:

A. sinks must be cleaned before use;

B. equipment and utensils must be thoroughly washed in the first compartment with a detergent in accordance with the detergent manufacturer’s instructions;

C. equipment and utensils must be rinsed free of detergent and abrasives with clean water in the second compartment;

D. equipment and utensils must be sanitized in the third compartment according to subpart 6.

Subp. 6. Sanitization methods. The food-contact surfaces of all equipment and utensils must be sanitized by one of the following methods:

A. immersion for at least one-half minute in clean, hot water at a temperature of at least 170 degrees Fahrenheit (77 degrees centigrade);

B. immersion for at least one minute in a clean solution containing at least 50 parts per million, but no more than 200 parts per million, of available chlorine as a hypochlorite and at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade);

C. immersion for at least one minute in a clean solution containing at least 12.5 parts per million, but not more than 25 parts per million, of available iodine and having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade);
D. immersion in a clean solution containing any other chemical sanitizing agent allowed under Code of Federal Regulations, title 21, section 178.1010, that will provide at least the equivalent bactericidal effect of a solution containing 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade) for one minute; or

E. for equipment too large to sanitize by immersion, but in which steam can be confined, treatment with steam free from materials or additives other than those specified in Code of Federal Regulations, title 21, section 173.310.

Equipment too large to sanitize by immersion must be rinsed, sprayed, or swabbed with a sanitizing solution of at least twice the required strength for that particular sanitizing solution.

Subp. 7. Hot water sanitization. When hot water is used for sanitizing, the following equipment must be provided and used:

A. an integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 degrees Fahrenheit (77 degrees centigrade);

B. a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (plus or minus two degrees centigrade) convenient to the sink for frequent checks of water temperature; and

C. dish baskets or other equipment of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

Subp. 8. Chemical sanitization. When chemicals are used for sanitization, they must not have concentrations higher than the maximum permitted under Code of Federal Regulations, title 21, section 178.1010, and a test kit or other device that accurately measures the parts per million concentration of the solution must be provided and used, and a log of the test results must be maintained for the previous three months.

Subp. 9. Air drying. All dishes and utensils must be air dried before being stored or must be stored in a self-draining position. Properly racked sanitized dishes and utensils may complete air drying in proper storage places, if available.

STAT AUTH: MS s 144A.04; 144A.08; 256B.431 HIST: 19 SR 1803

Current as of 01/19/05
101.08 Dietitian. The term “dietitian” shall mean a person who is licensed as a dietitian in the State of Mississippi, or a Registered Dietitian exempted from licensure by statute.

101.29 Qualified Dietary Manager.

1. A Dietetic Technician who has successfully graduated from a Dietetic Technician program accredited by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager’s Association or the American Dietetic Association.

2. A person who has successfully graduated from a didactic program in Dietetics approved by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

3. A person who has successfully completed a Dietary Manager's Course approved by the Dietary Manager’s Association and who passes the credentialing examination and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

4. A person who has successfully completed a Dietary Manager’s Course approved by the Dietary Manager’s Association and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

127 GENERAL

127.01 Direction and Supervision. Food service is one of the basic services provided by the facility to its residents. Careful attention to adequate nutrition and prescribed modified diets contribute appreciably to the health and comfort to the resident and stimulate his desire to achieve and maintain a higher level of self-care. The facility shall provide residents with well-planned, attractive, and satisfying meals which will meet their nutritional, social, emotional, and therapeutic needs. The dietary department of a facility shall be directed by a Registered Dietitian, a certified dietary manager, or a qualified dietary manager. If a qualified dietary manager is the director, he/she must receive frequent, regularly scheduled consultation from a licensed dietitian, or a registered dietitian exempted from licensure by statute.
128 FOOD HANDLING PROCEDURES

128.01 Safe Food Handling Procedures. Food shall be prepared, held, and served according to current Mississippi Department of Health Food Code Regulations.

129 MEAL SERVICE

129.01 Meal and Nutrition. At least three (3) meals in each twenty-four (24) hours shall be provided. The daily food allowance shall meet the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council of the National Academy of Science adjusted for individual needs. A standard food planning guide (e.g., food pyramid) or Nutrient Based Menu (determined by nutritional analysis) shall be used for planning and food purchasing. It is not intended to meet the nutritional needs of all residents. This guide must be adjusted to consider individual differences. Some residents will need more or less due to age, size, gender, physical activity, or state of health.

129.02 Meal Planning Guidelines.

1. Daily Food Guide. The daily food allowance for each resident shall include:

a. Protein food. A minimum of 2-3 servings of meat, poultry, fish, dried beans, eggs, or meats. (4-6 oz daily).

b. Milk, yogurt, and cheese group: A minimum of 2 servings daily.

c. Vegetables and fruits: A minimum of 5 servings daily of fruits and vegetables. This shall include a Vitamin C source daily and a Vitamin A source 3-4 times weekly.

d. Breads, cereals, and pastas: A minimum of 6 servings daily.

e. Fat, oil, and sweets: As needed for additional calories and flavor.

2. Nutrient-Based Menu may be used in lieu of using a standard food planning guide. Nutritional analysis of menus shall meet current recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the national Academy of Science for age and gender.

129.03 Menu. The menu shall be planned and written at least one week in advance. The current week’s menu shall be approved by the dietitian, dated, posted in the kitchen and followed as planned. Substitutions and changes on all diets shall be documented in writing. Copies of menus and substitutions shall be kept on file for at least thirty (30) days.

129.04 Timing of Meals. A time schedule for serving meals to residents shall be established. Meals shall be served during customarily-accepted timeframes. There shall be no more than fourteen (14) hours between evening meal and breakfast meal. There may be 16 hours between the evening meal and breakfast meal if approved by the resident involved and a substantial snack (including protein) is served before bedtime.

129.05 Modified Diets. Modified diets which are a part of medical treatment shall be prescribed in written orders by the physician or nurse practitioner. All modified diets shall
be planned in writing and posted along with regular menus. Liberalized Geriatric Diets are encouraged for elderly residents when there is a need for moderate diet therapy. A current diet manual shall be available to personnel. The dietitian shall approve all modified diet menus and the diet manual used in the nursing home.

129.06 Food Preparation. Foods shall be prepared by methods that conserve optimum nutritive value, flavor, and appearance. Also, the food shall be acceptable to the individuals served. A file of tested recipes shall be maintained to assure uniform quantity and quality of products.

129.07 Food Supply. Supplies of perishable foods for at least a twenty-four (24) hour period and or non-perishable foods for a three (3) day period shall be on the premises to meet the requirements of the planned menus. The non-perishable foods shall consist of commercial type processed foods.

129.08 Serving of Meals.

1. Table should be of a type to seat not more than four (4) or six (6) residents. Residents who are not able to go to the dining room shall be provided sturdy tables (not TV trays) of proper heights. For those who are bedfast or infirm tray service shall be provided in their rooms with the tray resting on a firm support.

1. Personnel eating meals or snacks on the premises shall be provided facilities separate from and outside of food preparation, tray service, and dishwashing areas.

2. Foods shall be attractively and neatly served. All foods shall be served at proper temperature. Effective equipment shall be provided and procedures established to maintain food at proper temperature during serving.

3. All trays, tables, utensils and supplies such as china, glassware, flatware, linens and paper placemats, or tray covers used for meal service shall be appropriate, sufficient in quantity and in compliance with the applicable sanitation standard.

4. Food Service personnel. A competent person shall be designated by the administrator to be responsible for the total food service of the home. Sufficient staff shall be employed to meet the established standards of food service. Provisions should be made for adequate supervision and training of the employees.

130 PHYSICAL FACILITIES

130.01 Floors. Floors in food service areas shall be of such construction so as to be easily cleaned, sound, smooth, non-absorbent, and without cracks or crevices. Also, floors shall be kept in good repair.

130.02 Walls and Ceilings. Walls and ceilings of food service areas shall be of tight and substantial construction, smoothly finished, and painted in a light color. The walls and ceilings shall be without horizontal ledges and shall be washable up to the highest level reached by splash and spray. Roofs and walls shall be maintained free of leaks. All openings
to the exterior shall be provided with doors or windows that will prevent the entrance of rain or dust during inclement weather.

130.03 Screens and Outside Openings. Openings to the outside shall be effectively screened. Screen doors shall open outward and be equipped with self-closing devices.

130.04 Lighting. The kitchen, dishwashing area, and dining room shall be provided with well distributed and unobstructed natural light or openings. Artificial light properly distributed and of an intensity of not less than thirty (30) foot candles shall be provided.

130.05 Ventilation. The food service area shall be ventilated in a manner that will maintain comfortable working conditions, remove objectionable odors and fumes, and prevent excessive condensations.

130.06 Employee Toilet Facilities. Toilet facilities with lockers shall be provided for employees. Toilet rooms shall not open directly into any room in which food is prepared, stored, displayed or served, nor into any room in which utensils are washed or stored. Toilet rooms shall have a lavatory and shall be well lighted and ventilated.

130.07 Hand washing Facilities. Hand washing facilities with hot and cold water, soap dispenser and a supply of soap, and disposable towels shall be provided in all kitchens. The use of a common towel is prohibited. Hands shall not be washed in sinks where food is prepared or where utensils are cleaned.

130.08 Refrigeration Facilities. Adequate refrigeration facilities, automatic in operation, for the storage of perishable foods shall be provided. Where separate refrigeration can be provided, the recommended temperatures for storing perishable foods are thirty-two (32) to forty (40) degrees Fahrenheit for meats and dairy products, and forty (40) degrees Fahrenheit to forty-five (45) for fruits and vegetables. If it is impractical to provide separate refrigeration, the temperature shall be maintained at forty-one (41) degrees Fahrenheit. Freezers shall be maintained at zero (0) degrees Fahrenheit or below. All refrigerators shall be provided with a thermometer. Homes with more than twenty-four (24) beds shall have commercial or institutional type refrigeration.

130.09 Equipment and Utensil Construction. Equipment and utensils shall be constructed so as to be easily cleaned and shall be kept in good repair.

130.10 Separation of Kitchen from Resident Rooms and Sleeping Quarters. Any room used for sleeping quarters shall be separated from the food service area by a solid wall. Sleeping accommodations such as a cot, bed, or couch shall not be permitted within the food service area.

131 AREAS AND EQUIPMENT

...131.02 Kitchen.

Equipment. Minimum equipment in kitchen shall include:
...b. Refrigerator and Freezers. Facilities with more than twenty-four (24) beds shall have sufficient commercial or institutional type refrigeration/freezer units to meet the storage needs of the facility.

...g. Cans garbage (heavy plastic or galvanized).

h. Lavatories, hand washing; conveniently located throughout the department.

...j. Pot and Pan Sink. A three compartment sink shall be provided for cleaning pots and pans. Each compartment shall be a minimum of twenty-four (24) inches by twenty (24) inches by sixteen (16) inches. A drain board of approximately thirty (30) inches shall be provided at each end of the sink, one to be used for stacking soiled utensils and the other for draining clean utensils.

k. Food Preparation Sink. A double compartment food preparation sink shall provide for washing vegetables and other foods. A drain board shall be provided at each end of the sink.

131.03 Dishwashing. Commercial or institutional type dishwashing equipment shall be provided in homes with more than twenty-four (24) beds. The dishwashing area shall be separated from the food preparation area. If sanitizing is to be accomplished by hot water, a minimum temperature of one hundred eighty (180) degrees Fahrenheit shall be maintained during the rinsing cycle. An alternate method of sanitizing through use of chemicals may be provided if sanitizing standards of the Mississippi Department of Health Food Code Regulations are observed. Adequate counter-space for stacking soiled dishes shall be provided in the dishwashing area at the most convenient place of entry from the dining room, followed by a disposer with can storage under the counter. There shall be a pre-rinse sink, then the dishwasher and finally a counter or drain for clean dishes.

131.04 Food Storage. A food-storage room with cross ventilation shall be provided. Adequate shelving, bins, and heavy plastic or galvanized cans shall be provided. The storeroom shall be of such construction as to prevent the invasion of rodents and insects, the seepage of dust and water leakage, or any other source of contamination. The food-storage room should be adjacent to the kitchen and convenient to the receiving area. The minimum area for a food-storage room shall equal two and one-half (2 1/2) square feet per bed and the width of the aisle shall be a minimum of three (3) feet.
19 CSR 30-85.052 Dietary Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities

PURPOSE: This rule establishes dietary requirements for new and existing intermediate care and skilled nursing facilities.

[Editor's Note: All rules relating to long-term care facilities licensed by the Division of Aging are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.]

(1) Each resident shall be served nutritious food, properly prepared and appropriately seasoned, taking into consideration resident food preferences, to provide an adequate diet in accordance with the physician’s order and as recommended by the National Research Council. Nutritional needs of residents shall be met and shall be based on the individual’s circumstances, medical condition and goals of treatment as determined and justified by the physician. A qualified professional, such as a dietitian or registered nurse, shall regularly assess these needs and shall keep the physician informed of the nutritional status of the resident. I/II

(2) At least three (3) substantial meals or other equivalent shall be served daily at regular hours with supplementary feedings as necessary. At least two (2) meals shall be hot. II/III

(3) Foods shall be prepared and served using methods that conserve nutritive value, flavor and appearance. II/III

(4) Special attention shall be given to the texture of food given to residents who have chewing difficulty. II/III

(5) Provision shall be made to assure that hot food is served hot and cold food is served cold. II

(6) If a resident refuses food served, appropriate substitutes of similar nutritive value shall be offered. II/III

(7) Bedtime snacks of nourishing quality shall be offered to all residents unless medically contraindicated. III

(8) Tray service and dining room service for residents shall be attractive and each resident shall receive appropriate table service. III
(9) Each resident who is served meals in bed or in a chair not within the dining area shall be provided with either a table, an overbed table or an overbed tray of sturdy construction which is positioned so that the resident can eat comfortably. III

(10) A time schedule for service of meals to residents shall be established. Meals shall be served approximately four to five (4–5) hours apart and not longer than fourteen (14) hours from a substantial evening meal to breakfast. II/III

(11) A minimum of thirty (30) minutes shall be given for eating meals. Residents who eat slowly or who need assistance shall be given as much time to eat as necessary. II/III

(12) An identification system shall be established to assure that each resident receives the diet as ordered. II/III

(13) If the residents have objectionable table manners, an alternate method of meal service shall be provided. III

(14) There shall be sufficient personnel properly trained in their duties to assure adequate preparation and serving of food. II

(15) All facilities shall employ a food service supervisor who shall have overall supervisory responsibility for dietary services. II

(16) Menus for special prescribed diets shall be reviewed and approved in writing by either a qualified dietitian, a registered nurse or a physician. II/III

(17) If food preparation, service, or both, within the facility is handled through a contractual arrangement, all regulations governing sanitation (13 CSR 15-17), dietary service and contractual personnel shall be met and maintained. II/III

(18) If it is determined by the Division of Aging that due to the complexity of prescribed diets or that the food service supervisor is unable to assure compliance with the dietary requirements, the facility shall be required to employ, for specified periods of time, a qualified dietitian to serve as a consultant and until the food service management improves to assure that the residents' needs are being met. II

(19) A current record of purchased food shall be kept to show the kind and amount of food purchased each month. III

(20) Supplies of staple food for a minimum of a one (1)-week period and of perishable foods for a minimum of a three (3)-day period shall be maintained on the premises. II

(21) Menus for all diets shall be planned at least two (2) weeks in advance. If cycle menus are used, the cycle must cover a minimum of three (3) weeks and must be different each day of the week. Menus showing the foods and amounts of food to be served each day during the current week shall be posted where seen readily as food is prepared and served. Each day's menu shall show the date it was actually used and shall be kept on file for thirty (30) days. A list of substitutions shall be kept for thirty (30) days. III
(22) A file of standardized recipes shall be used.

(23) A diet manual approved by the Division of Aging shall be readily available to attending physicians, nursing and dietary personnel.


Chapter 87—Sanitation Requirements for Long-Term Care Facilities

19 CSR 30-87.010 Definitions

PURPOSE: This rule defines terms used in relation to sanitation requirements for long-term care facilities.

(1) Adulterated means the condition of a food if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by rules, or in excess of tolerance if one has been established; if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption; if it has been processed, prepared, packed or held under unsanitary conditions, where it may have been rendered injurious to health; if it is in whole or in part the product of a diseased animal or an animal which has died other than by slaughter; or if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(2) Commissary means a catering establishment, restaurant or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

(3) Corrosion-resistant materials means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions and other conditions-of-use environment.

(4) Easily cleanable means that surfaces are readily accessible and made of materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(5) Food service employee means individuals having supervisory or management duties and any other person working in a food-service area of a long-term care facility.

(6) Equipment means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items.
(other than utensils) used in the operation of a food-service establishment.

(7) Food means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(8) Food-contact surface means any surface of equipment and utensils with which food normally comes in contact and any surface from which food may drain, drip or splash back onto surfaces normally in contact with food.

(9) Food-service area means any place where food is prepared and intended for individual-portion service and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual-portion services. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines and supply vehicles.

(10) Hermetically-sealed container means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

(11) Kitchenware means all multiuse utensils other than tableware.

(12) Law includes federal, state and local statutes, ordinances and regulations.

(13) Packaged means bottled, canned, car-toned or securely wrapped.

(14) Person includes any individual, partnership, corporation, association or other legal entity. Person in charge means the individual present in a food-service establishment who is the apparent supervisor of the food-service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

(15) Potentially hazardous food means any food that consists in whole or part of milk or milk products; eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five hundredths (0.85) or less.

(16) Reconstituted means dehydrated food products recombined with water or liquids.

(17) Safe materials means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. All materials are safe only if they are in compliance with the state Food Drug and Cosmetic Act in sections 196.010–180, RSMo (1986) and the federal Food, Drug and Cosmetic Act and are used in conformity with all applicable regulations.
(18) Sanitization means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for sufficient time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(19) Sealed means free of cracks or other openings that permit the entry or passage of moisture.

(20) Single-service articles means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one (1)-time, one (1)person use and then discarded.

(21) Tableware means multiuse eating and drinking utensils.

(22) Utensil means any implement used in the storage, preparation, transportation or service of food.

AUTHORITY: section 198.009, RSMo 1986.* This rule originally filed as 13 CSR 15


19 CSR 30-87.020 General Sanitation Requirements for New and Existing Long-Term Care Facilities

PURPOSE: This rule establishes standards related to general sanitation and housekeeping in a long-term care facility to protect the health and safety of the residents.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

[Editor’s Note: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo. ]

... (6) Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on surfaces or that constitutes a hazard to residents, employees or other persons.
(7) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment or utensils, nor in a way that constitutes a hazard to residents, employees or other persons, nor in a way other than in full compliance with the manufacturer’s labeling. II

...(12) All floors in the facility shall be clean and shall be maintained in good repair. Floors and floor coverings of all food-preparation, food-storage and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons. III

(13) Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable and maintained in good repair. Carpeting is prohibited in food-preparation, equipment-washing and utensil-washing areas where it would be exposed to large amounts of grease and water, in food-storage areas and toilet room areas where urinals or toilet fixtures are located. III

... (18) Studs, joists and rafters, shall not be exposed in walk-in refrigerating units, food-preparation areas, equipment-washing areas, toilet rooms and vestibules. III

... (20) Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as between meals. Mops used for cleaning bathrooms shall be disinfected after use and before using in other areas. III

(21) In new or extensively remodeled facilities for more than twelve (12) residents at least one (1) utility sink or curbed facility with a floor drain shall be provided and used for the cleaning of mops or similar wet-floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil washing or equipment washing or food-preparation sinks for this purpose is prohibited. III

... (31) Waste containers used in food-preparation and utensil-washing areas shall be kept covered when not in actual use. III


19 CSR 30-87.030 Sanitation Requirements for Food Service
PURPOSE: This rule establishes standards related to food supplies, food protection and storage, food preparation and handling, food service, food equipment and utensils, dishwashing methods and other general requirements related to the food preparation and service area. These rules have been adapted from the 1976 recommended ordinance governing food service establishments and established by the United States Food and Drug Administration.

[PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

Editor's Note: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.]

(1) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods. II/III

(2) Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean and after smoking, eating, drinking or using the toilet. Employees shall keep their fingernails clean and trimmed. II/III

(3) The outer clothing of all employees shall be clean and employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces. III

(4) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils or other items needing protection. Nothing in this section shall prohibit staff from dining with residents when the facility utilizes the social model for mealtime. III

(5) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils or other items needing protection. III

(6) The traffic of unnecessary persons through the food-preparation and utensil-washing areas is prohibited. III

(7) Food preparation and storage shall not be conducted in any room used as living or sleeping quarters. In a facility licensed for more than twelve (12) residents, except in an existing residential care facility, food service operations shall be separated from living or sleeping quarters by complete partitioning and solid, self-closing doors. Nothing in this
section shall prohibit an assisted living facility from providing kitchen and family style eating areas for use by residents. III

(8) Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment or linens and shall be stored in an orderly manner. III

(9) Live animals, including birds and turtles shall be excluded from the food storage service and preparation areas. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers, or service or guide dogs assisting residents or visitors shall be permitted in dining areas. Other dogs and cats may be permitted in the dining area if food service sanitation is not compromised and residents do not object. III

(10) Birds within enclosed aviaries may be in the dining area with the following stipulations:

(A) The facility ensures the aviary is cleaned at least twice a week and more often as needed to maintain a clean environment; III

(B) The facility provides proper hand washing instructions to those staff having access to the birds and monitors to ensure compliance; and III

(C) The facility contacts the local or county Health Department and informs that department that an aviary has been installed. III

(11) Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited. Nothing in this section shall prohibit facilities from using fresh vegetables or fruits purchased from farmers’ markets or obtained from the facility garden or residents’ family gardens. I/II

(12) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk products. I/II

(13) At all times, including while being stored, prepared, displayed, served or transported to or from the facility, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be forty-five degrees Fahrenheit (45°F) or below or one hundred forty degrees Fahrenheit (140°F) or above at all times, except as otherwise provided in this section. In the event of a fire, flood, power outage or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the Department of Health and Senior Services (the department). Upon receiving notice of this occurrence, the department shall take whatever action that it deems necessary to protect the residents. II/III
(14) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. III

(15) Containers of food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and containers may be stored on dollies, racks or pallets, provided the equipment is easily movable. III

(16) Food and containers of food shall be stored in a manner which protect it from contamination. The storage of food in toilet rooms or vestibules is prohibited. II/III

(17) Unless its identity is unmistakable, bulk food, such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name. III

(18) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), located to measure the air temperature in the warmest part of the refrigerated facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), may be used in lieu of indicating thermometers. III

(19) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit (45°F) or below, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of forty-five degrees Fahrenheit (45°F) or below. I/II

(20) Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit (0°F) or below. III

(21) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption. III

(22) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided that, the tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin. III
(23) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), located to measure the air temperature in the coolest part of the hot food storage facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bains-maries, steam tables, steam kettles, heat lamps, calrod units or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature. III

(24) The internal temperature of potentially hazardous foods requiring hot storage shall be one hundred forty degrees Fahrenheit (140°F) or above, except during periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of one hundred forty degrees Fahrenheit (140°F) or above. I/II

(25) Raw fruits and vegetables shall be thoroughly washed with potable water before being cooked or served. II/III

(26) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty degrees Fahrenheit (140°F), except that poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least one hundred sixty-five degrees Fahrenheit (165°F) with no interruption of the cooking process. Pork and food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty degrees Fahrenheit (150°F); rare roast beef shall be cooked to an internal temperature of at least one hundred thirty degrees Fahrenheit (130°F); and rare beef steak shall be cooked to a temperature of one hundred thirty degrees Fahrenheit (130°F) unless otherwise ordered by the resident. II/III

(27) Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes. II/III

(28) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used. II

(29) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit (165°F) or higher throughout before being served or before being placed in a hot food-storage facility. II

(30) Steam tables, bains-maries, warmers and similar hot food-holding facilities are prohibited for the rapid reheating of potentially hazardous foods. II/III

(31) Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty-five degrees Fahrenheit (45°F) or below within four (4) hours after preparation. II/III
(32) Metal stem-type numerically scaled indicating thermometers, accurate to plus or minus two degrees Fahrenheit (±2°F), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods. II/III

(33) Potentially hazardous foods shall be thawed in refrigerated units at a temperature not to exceed forty-five degrees Fahrenheit (45°F); or under potable running water at a temperature of seventy degrees Fahrenheit (70°F) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or as part of the conventional cooking process. II/III

(34) At time of service to the resident, food shall be at least one hundred twenty degrees Fahrenheit (120°F) or forty-five degrees Fahrenheit (45°F) or below. II/III

(35) Milk and milk products for drinking purposes shall be provided to the resident in an unopened, commercially filled package not exceeding one (1) pint in capacity, or shall be drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser, or shall be poured directly into glass(es) to be used by the resident(s) from a commercially filled gallon or half-gallon container provided the container is completely emptied in the process and then discarded, or if a portion of milk remains, that no milk may be returned to that container and is immediately refrigerated. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half (1/2) pint are required for mixed drinks, cereal or dessert service, milk and milk products may be poured from a commercially filled container of not more than one (1) gallon capacity and no milk may be returned to that container. II/III

(36) Reconstituted dry milk and dry milk products shall not be used for drinking purposes but may be used in instant desserts and whipped products, or for cooking and baking purposes. III

(37) Cream or half-and-half or nondairy creaming agents or whitening agents shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service. III

(38) Condiments, seasoning and dressings for self-service use shall be provided in individual packages, from dispensers or from protected containers. III

(39) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer shall be provided in individual packages or in pour-type dispensers. III

(40) Ice shall be dispensed only with scoops, tongs or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil’s handle extended out of
the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap. III

(41) To avoid unnecessary manual contact with food, suitable preparation and dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses, during service, dispensing utensils shall be stored in a manner which would prevent contamination. III

(42) Once served to a resident, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition may be re-served. III

(43) Food on display shall be protected from resident contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous foods on display. III

(44) Equipment and utensils shall be constructed and repaired with safe materials including finishing materials; shall be corrosion-resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment utensils and single-service articles shall not impart odors, color or taste nor contribute to the contamination of food. III

(45) Hard maple or equivalently nonabsorbent material may be used for cutting blocks, cutting boards, salad bowls and baker’s tables. The use of wood as a food-contact surface under other circumstances is prohibited. III

(46) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements of this rule, are permitted for repeated use. III

(47) Re-use of single service articles is prohibited. III

(48) Food-contact surfaces shall be easily cleanable, smooth and free of breaks, open seams, cracks, chips, pits and similar imperfections and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning; ordinary “V” type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil-cooking equipment and hot oil-filtering systems, these threads shall be minimized. III

(49) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. III
(50) All sinks and drain boards shall be self-draining. III

(51) Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection without being disassembled; or by disassembling without the use of tools; or by easy disassembling with the use of only simple tools such as a mallet, a screwdriver or an open-end wrench kept available near the equipment. III

(52) Equipment intended for in-place cleaning shall be so designed and fabricated that cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; cleaning and sanitizing solutions will contact all interior food-contact surfaces; and the system is self-draining or capable of being completely evacuated. III

(53) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections. III

(54) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, and readily accessible for cleaning, and shall be of such material and in a repair as to be easily maintained in a clean and sanitary condition. III

(55) Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food-contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. III

(56) Equipment that was installed in an existing licensed facility and that does not fully meet all of the design and fabrication requirements shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic. Replacement equipment and new equipment shall meet the requirements for design and fabrication. III

(57) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment adjacent areas. Equipment is portable if it is small and light enough to be moved easily by one (1) person; and it has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning. III

(58) Floor-mounted equipment, unless readily movable, shall be sealed to the floor; or installed on a raised platform of concrete or other smooth masonry in a way that meets all of the requirements for sealing or floor clearance; or elevated on legs to provide clearance between the floor and equipment, except that vertically-mounted floor mixers may be elevated to provide at least a four inch (4") clearance between the floor and equipment if no part of the floor under the mixer is more than six inches (6") from the cleaning access. Equipment is easily movable if it is mounted on wheels or casters; and it has no utility
connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning. III

(59) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall not be more than one-thirty-second inch (1/32”); or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings. III

(60) Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks and dollies shall be positioned to provide accessibility to working areas. III

(61) Tableware shall be washed, rinsed and sanitized after each use. II

(62) Kitchenware and food-contact surfaces of equipment shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred. Water pitchers which are for individual resident use shall be sanitized daily. II/III

(63) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation. III

(64) The food-contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil-cooking equipment and hot oil-filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil. III

(65) Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris. III

(66) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose. III

(67) Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one (1) of the permitted sanitizing solutions and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. Moist cloths or sponges used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. III
(68) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three (3) compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils and each compartment of the sink shall be supplied with hot and cold potable running water, except that in an existing licensed facility, the use of a two (2)-vat sink and a supplementary portable container to be used for sanitization is acceptable. Fixed equipment and utensils and equipment too large to be cleaned in sink compartment shall be washed manually or cleaned through pressure spray methods.

(69) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(70) Equipment and utensils shall be pre-flushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(71) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence: sinks shall be cleaned prior to use; equipment and utensils shall be thoroughly washed in the first compartment with hot detergent solution that is kept clean; equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and equipment and utensils shall be sanitized in the third compartment.

(72) The food-contact surfaces of all equipment and utensils shall be sanitized by immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); or immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) parts per million of available iodine and having a pH not higher than five (5.0) and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 of the (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201, Telephone: 202-619-0257, Toll Free: 1-877-696-6775, that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75°F); or treatment with steam, free from materials or additives other than those specified in 21 CFR 173.310 of the (Revised 2005), Food and Drug Code of the of the United States Food and Drug Administration, Department of Health and Human Services, in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion. (21 CFR 178.1010 (Revised 2005) and 21 CFR 173.310 (Revised 2005) are incorporated by reference in this rule and available by Internet at: www.access.gpo.gov. This rule does not incorporate any subsequent amendments or additions.)
(73) When hot water is used for sanitizing, as allowed by section (72) of this rule, the following facilities shall be provided and used: an integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); and a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), convenient to the sink for frequent checks of water temperature; and dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water. II/III

(74) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 of the (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, Department of Health and Human Services, and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used. III

(75) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. In a facility with a licensed capacity of twelve (12) or fewer beds, a home-type dishwashing machine shall be acceptable. If a new machine is purchased, it shall be one with sanitizing capabilities. In a facility licensed for a larger capacity, if a dishwasher is used, it shall meet the requirements in sections (72)–(74) of this rule. Machines and devices shall be properly installed and maintained in good repair; shall be operated in accordance with manufacturers’ instructions; and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers and liquid sanitizer injectors, if any, shall be properly installed and maintained. II/III

(76) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch (1/4") IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water. III

(77) Machine- or water line-mounted numerically scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold. III

(78) Rinse water tanks shall be protected by baffles, curtains or other effective means of minimizing the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers’ specifications attached to the machines. III

(79) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of
soiled utensils or the use of each movable dish table for the storage of clean utensils follow-

(80) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to

remove gross food particles and soil prior to being washed in a dishwashing machine unless

a prewash cycle is a part of the dish-washing machine operation. Equipment and utensils

shall be placed in racks, trays or baskets, or on conveyors, in a way that food-contact

surfaces are exposed to the unobstructed application of detergent wash and clean rinse

waters and that permits free draining. III

(81) Machines (single-tank, stationary-rack, door-type machines and spray-type glass

washes) using chemicals for sanitization may be used provided that—the temperature of

the wash water is not less than one hundred twenty degrees Fahrenheit (120°F), the wash

water is kept clean, chemicals added for sanitization purposes are automatically dispensed;

utensils and equipment are exposed to the final chemical sanitizing rinse in accordance with

manufacturers’ specifications for time and concentration, the chemical sanitizing rinse

water temperature is not less than seventy-five degrees Fahrenheit (75°F) nor less than the

temperature specified by the machine’s manufacturer; chemical sanitizers used shall meet

the requirements of 21 CFR 178.1010 (Revised 2005), Food and Drug Code of the United

States Food and Drug Administration, Department of Health and Human Services and a test

kit or other device that accurately measures the parts per million concentration of the

solution is available and is used. II/III

(82) Machines using hot water for sanitizing may be used provided that they are operated

in accordance with the manufacturer's instructions and are maintained in good repair. II/III

(83) All dishwashing machines shall be thoroughly cleaned at least once a day or more often

when necessary to maintain them in a satisfactory operating condition. III

(84) After mechanical or manual sanitization, all equipment and utensils shall be air dried.

All utensils shall be stored in a self-draining position. III

(85) Cleaned and sanitized equipment and utensils shall be handled in a way that protects

them from contamination. Spoons, knives and forks shall be touched only by their handles.

Cups, glasses, bowls, plates and similar items shall be handled without contact with inside

surfaces or surfaces that contact the user's mouth. III

(86) Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean,

dry location in a way that protects them from contamination by splash, dust and other

means. The food-contact surfaces of fixed equipment shall also be protected from

contamination. III

(87) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or

inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be

designed and used to present the handle to the employee or consumer. Unless tableware is

prewrapped, holders for knives, forks and spoons at self-service locations shall protect

these articles from contamination and present the handle of the utensil to the consumer. III
(88) Single-service articles shall be stored above the floor in closed cartons or containers which protect them from contamination. III

(89) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user. III

(90) Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by a person who has washed his/her hands immediately prior to sorting or wrapping utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination. III

(91) Prohibited Storage Area. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited. III

(92) All storage and installation of equipment under exposed sewage or water line, except for automatic fire protection sprinkler heads, is prohibited. II

(93) Permanently fixed artificial light sources shall be installed to provide at least twenty footcandles of light on all food preparation surfaces and at equipment or utensil-washing work levels. III

(94) Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches (30") from the floor, at least twenty (20) footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas, and at least ten (10) footcandles of light in walk-in refrigerating units, dry food-storage areas and in all other areas. This shall also include dining areas during cleaning operations. III

(95) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by or within food storage, preparation, service and display facilities, and facilities where utensils and equipment are cleaned and stored. III

(96) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. III

(97) Nothing in this rule shall prohibit a facility from hosting a resident/family picnic, carry-in dinner, fish fry or barbecue or allowing a local community or church group to sponsor such activities for residents. Reasonable practices shall be used for maintaining sanitation and appropriate temperatures of food brought to the facility. III

37.40.304 NURSING FACILITY SERVICES

...(3) Nursing facility services include, but are not limited to:

...(b) dietary services including dietary supplements used for tube feeding or oral feeding such as high nitrogen diet;

50-5-1104. Rights of long-term care facility residents.

...(2) In addition to the rights adopted under subsection (1), the state adopts for all residents of long-term care facilities the following rights:

...(f) During a resident's stay in a long-term care facility, the resident retains the prerogative to exercise decision-making rights in all aspects of the resident's health care, including placement and treatment issues such as medication, special diets, or other medical regimens.

37.40.331 ITEMS BILLABLE TO RESIDENTS

(1) The department will not pay a provider for any of the following items or services provided by a nursing facility to a resident. The provider may charge these items or services to the nursing facility resident:

...(n) specially prepared or alternative food requested instead of food generally prepared by facility; and

37.40.330 SEPARATELY BILLABLE ITEMS

(1) In addition to the amount payable under the provisions of ARM 37.40.307(1) or

(4), the department will reimburse nursing facilities located in the state of Montana for the following separately billable items. Refer to the department's nursing facility fee schedule for specific codes and refer to healthcare common procedure coding system (HCPCS) coding manuals for complete descriptions of codes:

(at) nutrition administration kits;
(au) feeding supply kits;

(av) nutrient solutions for parenteral and enteral nutrition therapy when such solutions are the only source of nutrition for residents who, because of chronic illness or trauma, cannot be sustained through oral feeding. Payment for these solutions will be allowed only where the department determines they are medically necessary and appropriate, and authorizes payment before the items are provided to the resident;

37.106.311 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: FOOD SERVICE ESTABLISHMENTS

(1) A health care facility which serves food or beverage to patients or residents shall comply with the food service establishment act, Title 50, chapter 50, MCA, and food service establishments rules, ARM Title 37, chapter 110, subchapter 2.

Food Service Establishments

37.110.201 INTRODUCTION

(1) This is a subchapter regulating food service establishments that serve prepared food and drink to the public, as provided in Title 50, chapter 50, MCA.

(2) This subchapter defines food, potentially hazardous food, food service establishment, mobile food service, semi-permanent food service establishment, temporary food service establishment, regulatory authority, utensils, equipment, etc.; provides for the sale of only sound, safe, properly labeled food; regulates the sources of food; establishes sanitation standards for food, food protection, food service operations, food service personnel, food service and utensils, sanitary facilities and controls, and other facilities; requires licenses for the operation of food service establishments; regulates the inspection of such establishments; provides for the examination and condemnation of food; provides for enforcement of this subchapter, and the fixing of penalties.

(3) All food service establishments must comply with all appropriate building construction standards as set forth by 50-60-101, MCA and all applicable administrative rules as adopted by the department of commerce in ARM Title 8.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.202 PURPOSE

(1) This subchapter shall be liberally construed and applied to promote its underlying purpose which is to prevent and eliminate conditions and practices which endanger public health.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)
37.110.203 DEFINITIONS For the purpose of this subchapter:

(1) "Adulterated" means a food:

(a) that bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;

(b) that bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by laws or rules or in excess of such tolerance if one has been established;

(c) that consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption;

(d) that has been processed, prepared, packed or held under Unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) that is in whole or in part a product of a diseased animal, or an animal which has died otherwise than by slaughter;

(f) whose container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(g) as otherwise determined to be "adulterated" under the Montana Food, Drug and Cosmetic Act, 50-31-202, MCA.

(2) "Approved" means acceptable to the regulatory authority based on its determination of conformity with safe food manufacturing and processing methods.

(3) "Aw" means water activity which is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

(4) "Beverage" means a liquid for drinking, including water.

(5) "Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the federally-regulated national shellfish sanitation program.

(6) "Code of Federal Regulations (CFR)" means the compilation of general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

(7) "Comminuted" means reduced in size by methods that include chopping, flaking, grinding, or mincing; fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.
(8) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment, and does not offer the food for resale;

(9) "Corrosion resistant material" means a material that maintains an easily cleanable surface under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions-of-use environment.

(10) "Critical control point" means part of a food safety evaluation process, such as a HACCP plan, where loss of control may result in an unacceptable health risk.

(11) "Critical item" means a provision of this subchapter that, if violated, is more likely than other violations to contribute to food contamination, illness, or environmental degradation.

(12) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk so that the identified food safety hazard may not occur.

(13) "Department" means the department of public health and human services.

(14) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(15) "Easily cleanable" means a surface whose material, design, construction, and installation allows effective removal of soil by normal cleaning methods.

(16) "Easily movable" means any item that: (a) weighs 50 pounds (23 kilograms) or less; is mounted on casters, gliders, or rollers; or is provided with a mechanical means requiring no more than 50 pounds (23 kilograms) of force to safely tilt a unit of equipment for cleaning; and (b) has no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

(17) "EPA" means the federal environmental protection agency.

(18) "Equipment" means items, other than utensils, used in the operation of a food establishment, including stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, boxes counters, refrigerators, sinks, dishwashing machines, steam tables, proof boxes and freezers.

(19) "Exotic species" means an animal that comes from or that is commonly found in another part of the world or in a foreign country. Cattle, sheep, swine, goats, and poultry are not considered exotic species.

(20) "Fish" means edible forms of aquatic animal life other than birds or mammals, encompassing both fresh and saltwater forms, and including molluscan shellfish and crustaceans.
(21) "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used, intended for use, or for sale in whole or in part for human consumption.

(22) "Food borne disease outbreak" means illness experienced by two or more persons after ingestion of a common food which an epidemiological analysis implicates as the source of the illness, a single case of illness from botulism, or chemical poisoning.

(23) "Food contact surfaces" means those surfaces of equipment or utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash into or onto food or surfaces normally in contact with food.

(24) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(25) "Food manufacturing establishment" means a commercial establishment and buildings or structures in connection with it, used to manufacture or prepare food for sale for human consumption, but does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants, slaughterhouses, or meat packing plants; a food manufacturing establishment does not provide food directly to a consumer, and does not include a food service establishment as defined in this rule.

(26) "Food service establishment" means an operation defined in 50-50-102(8), MCA, and includes an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption in a mobile, stationary, temporary, semi-permanent or permanent facility or location; where consumption is on or off the premises and regardless of whether there is a charge for the food. Food service establishment does not include:

(a) an establishment, vendor, or vending machine that sells or serves only non-perishable foods;

(b) an establishment that offers only prepackaged foods that are not potentially hazardous;

(c) a produce stand that only offers whole, uncut fresh fruits and vegetables;

(d) a food manufacturing establishment;

(e) a kitchen in a private home if the food is prepared for sale or service at a function such as a religious or charitable organization's bake sale;

(f) a private home that receives catered or home-delivered food; or

(g) a private organization serving food to only its members.

(27) "Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, poultry, fish or ratites such as ostrich, emu, and rhea; but includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria or muskrat, and non-aquatic reptiles such as land snakes.
(28) "HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis critical control point principles developed by the national advisory committee on microbiological criteria for foods.

(29) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(30) "Hermetically sealed container" means a container that is designed and made to be secure against the entry of microorganisms and in the case of low acid canned foods, to maintain the sterility of its content after processing.

(31) "Highly susceptible population" means a group of persons who are more likely than other populations to experience food borne disease because they have weak immune systems; such as patients and residents in a health care facility as provided in Title 50, chapter 5, MCA; older adults being served by such programs as meals on wheels, senior citizen centers, or similar programs; and children of preschool age in a day care center as provided in ARM Title 37, chapter 95.

(32) "Injected meat" means meat that has been manipulated, such as through tenderizing or inserting juices, that allows infectious or toxigenic microorganisms to be introduced from the meat's surface to its interior.

(33) "Kitchenware" means all multiuse utensils other than tableware used in the storage, preparation, conveying or serving of food.

(34) "Law" means applicable federal, state, and local statutes, ordinances, rules and regulations.

(35) "License" means a document issued by the department that authorizes a person or persons to operate a food service establishment, mobile food service establishment, or temporary food service establishment.

(36) "Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves.

(37) "Local health authority" means a local board of health established in accordance with Title 50, chapter 2, MCA, and its employees, or the local health officer or the local sanitarian.

(38) "Meat" means the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep, goats, bison, and other edible animals, except fish and poultry, that is offered for human consumption.

(39) "Mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(40) "Mobile food service" means a vehicle-mounted food establishment designed to be readily movable.
(41) "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops, or their edible portions, but does not include the shucked adductor muscle of the scallop used alone.

(42) "Other authorized persons" means those persons working in a food service establishment that are allowed on the premises by the licensee or person in charge.

(43) "Packaged" means bottled, canned, cartoned, or securely wrapped, but does not include the wrapper, carry-out box, or other nondurable container used to protect the food during service and receipt of the food by the consumer.

(44) "Perishable food" means any food of such type or in such condition as may spoil.

(45) "Perishable food vending machine" means a self-servicing device that, upon insertion of a coin, paper currency, token, card, or key, dispenses packaged perishable food.

(46) "Person" means an individual, partnership, corporation, association, cooperative group, or other entity engaged in operating, owning, or offering services of an establishment.

(47) "Person in charge" means the individual present in the food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any food employee present is the person in charge.

(48) "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination that are used to maintain or enhance a person's health, hygiene, or appearance, including medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

(49) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution, with values between 0 and 7 indicating acidity, values between 7 and 14 indicating alkalinity, and the value of 7 considered neutral.

(50) "Physical facilities" means the structure and interior surfaces of a food establishment, including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(51) "Potentially hazardous food" means:

(a) a food that is a natural or synthetic and is in a form capable of supporting: (i) the rapid and progressive growth of infectious or toxigenic micro-organisms; (ii) the growth and toxin production of Clostridium botulism; or (iii) in raw shell eggs, the growth of Salmonella enteritidis;

(b) a food of animal origin that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons; and garlic and oil mixtures;
(c) potentially hazardous food, which does not include: (i) an air-cooled, hard-boiled egg with intact shell; (ii) a food with a water activity (aw) value of 0.85 or less; (iii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 75°F, (24°C);

(iv) a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; or

(v) a food for which a variance granted by the department is based upon laboratory evidence demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of Clostridium botulinum cannot occur.

(52) "Poultry" means any domesticated birds, such as chickens, turkeys, ducks, geese, or guineas, whether live or dead.

(53) "Premises" means the physical facility, its contents, and the contiguous land or property under the control of the license holder; whether it is a stand-alone facility or whether it is only one component of a larger organization, such as a health care facility, hotel, motel, school, recreational camp, or prison.

(54) "Pushcart" means a non-self-propelled vehicle limited to serving non-potentially hazardous food, or wrapped food prepared beforehand in an approved food service establishment or food manufacturing establishment maintained at proper temperatures.

(55) "Ratites" means birds such as ostrich, emu, and rhea.

(56) "Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food service establishment or the consumer, and that is reasonably expected to be consumed in that form.

(57) "Reconstituted" means dehydrated food products combined with water or other liquids.

(58) "Reduced-oxygen packaging" means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21% oxygen, including altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging, including sous vide.

(59) "Refuse" means solid waste not carried by water through the sewage system, including discarded organic matter, garbage, trash, and other waste materials resulting from the operation of a food establishment.

(60) "Regulatory authority" means the Montana department of public health and human services or the local health authority, established in accordance with Title 50, chapter 2, MCA, and their employees, or the local health officer and/or the local sanitarian.
(61) "Safe temperature" means temperatures of 41°F (5°C) or below and 135°F (57.2°C) or above for perishable and potentially hazardous foods; 42°F through 45°F (5.5°C through 7°C) may also be considered safe if existing equipment cannot maintain 41°F (5°C) or below and food storage and display is reduced to a maximum of 4 days for ready-to-eat foods.

(62) "Safe materials" means articles manufactured from or composed of materials which may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in 50-31-103(8) and (22), MCA, of the Montana Food, Drug, and Cosmetic Act, they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or 706 of the applicable sections of the federal Food, Drug and Cosmetic Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in 50-31-103(8) and (22), MCA, of the Montana Food, Drug, and Cosmetic Act and are used in conformity with all applicable regulations of the federal food and drug administration.

(63) "Sanitization" means the application of accumulative heat or concentration of chemicals on cleaned food contact surfaces that, when evaluated for efficacy; yield a reduction of 5 logarithms, which is equal to 99.999% reduction of representative food borne disease microorganisms.

(64) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

(65) "Semipermanent stands" means those establishments which are not mobile and are not on permanent foundations.

(66) "Servicing area" means an operation base location to which a mobile food service, food transportation vehicle or pushcart returns regularly for maintenance such as vehicle and equipment cleaning, discharge of liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(67) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may contain chemicals in solution.

(68) "Shellstock" means raw, in-shell molluscan shellfish.

(69) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

(70) "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and other similar articles that are designed and constructed for one-time, one-person use and then discarded.

(71) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded, including waxed paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications for multiuse utensils in ARM 37.110.212 and 37.110.213.
"Smooth" means food contact surfaces or nonfood contact surfaces that are easily cleanable and free of breaks, open seams, cracks, chips, pits, and similar imperfections, including floors, walls, or ceilings that have an even or level surface with no roughness or projections that make it difficult to clean.

"Support animal" means a trained animal, such as a seeing eye dog, that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform.

"Tableware" means eating, drinking, and serving utensils for table use, such as flatware, which includes knives, forks, and spoons; and hollow ware, which includes bowls, cups, serving dishes, tumblers and plates.

"Temperature measuring device" means a thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

"Utensil" means a food contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

"Variance" means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this subchapter if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

"Water supply" means a safe, accessible, and adequate source of water that meets requirements in Title 75, chapter 6, MCA and ARM Title 17, chapter 38 applicable to public water systems.

"Whole muscle intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

Food must be free from adulteration or other contamination and must be safe for human consumption. Food must be obtained from sources that comply with all laws relating to food and food labeling which include, but are not limited to, laws of the federal food and drug administration (FDA); environmental protection agency (EPA), United States.
(2) Fluid milk and fluid milk products used or served must be pasteurized and must meet grade A quality standards. Dry milk and dry milk products must be made from pasteurized milk and milk products.

(3) Fresh and frozen shucked shellfish (oysters, clams or mussels), must be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number. Shell stock and shucked shellfish must be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams or mussels) must be identified by an attached tag which states the name and address of the original shell stock processor, the kind and quantity of shell stock and the interstate certification number issued by the state or foreign shellfish control agency. Shell stock tags or labels must be retained for 90 days from the date the container is emptied. Molluscan shellfish that are recreationally caught must not be received for sale or service.

(4) Only grade B eggs or better with shell intact without cracks, or pasteurized liquid, frozen, or dry eggs or dry egg products must be used.

(5) Fish, other than molluscan shellfish, that are intended for consumption in their raw form and allowed as specified under ARM 37.110.207(8)(b) must be obtained from a supplier that freezes the fish or must be frozen on the premises as specified in ARM 37.110.207(8)(b).
(6) Fish may not be received for sale or service unless they are commercially and legally caught and harvested.

(7) Game animals and exotic species may be received for sale or service if raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction. The inspection of game animals and exotic species must include an antemortem and postmortem examination by a regulatory authority as provided in 81-9-230, MCA.

(8) Ice for use as a food or a cooling medium must be made from drinking water which complies with the requirements in ARM 37.110.217. After use as a cooling medium, ice may not be used as food.

(9) Receiving temperature of refrigerated, potentially hazardous food must be 41°F (5°C) or below unless otherwise required by law.

(10) Potentially hazardous food that is labeled frozen and shipped frozen by a food processing plant must be received frozen. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

Rule 05 reserved

37.110.206 FOOD STORAGE AND PROTECTION

(1) Food must be stored as follows to prevent potential contamination:

(a) Food must be stored in a clean, dry location where it is not exposed to contamination and is at least 6 inches (15 centimeters) above the floor.

(b) Food in packages and working containers may be stored less than 6 inches (15 centimeters) above the floor if it is stored on case lot handling equipment, such as dollies, racks, or pallets.

(c) Pressurized beverage containers; food in waterproof containers, such as bottles or cans in cases; and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(d) Food may not be stored in toilet rooms; dressing rooms; garbage rooms; mechanical rooms; under sewer lines that are not shielded to intercept potential drips; under leaking water lines, including leaking automatic fire sprinkler heads; under lines on which water has condensed; under open stairwells; or under other sources of contamination.

(e) Food packages must be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(f) Working containers holding food or food ingredients that are removed from their original packages, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, must be identified with the common name of the food. The labeling must be on the
container or on a non-detachable lid. Those containers holding food that can be readily and unmistakably recognized, such as dry pasta, need not be identified.

(g) Packaged food may not be stored in direct contact with water or undrained ice if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the water or ice.

(h) Whole raw fruits or vegetables, cut raw vegetables such as celery or carrot sticks, cut potatoes, and tofu may be immersed in ice or water that is at a safe temperature.

(i) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(2) Packaged and unpackaged food must be protected from cross-contamination by:

(a) cleaning and sanitizing equipment and utensils as specified under ARM 37.110.215;

(b) storing food removed from its original container or package in a clean and sanitized covered container. Covers must be impervious and nonabsorbent, except that clean laundered linens or napkins may be used for lining or covering containers of bread or rolls. Quarters or sides of meat or whole and uncut processed meats may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat;

(c) cleaning hermetically sealed containers of food of visible soil before opening;

(d) storing damaged, spoiled, or recalled products being held for credit, redemption, or return in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles;

(e) separating fruits and vegetables, before they are washed as specified under ARM 37.110.207(3) from ready-to-eat food;

(f) separating raw animal foods during storage, preparation, holding, and display from raw ready-to-eat food, including other raw animal food such as fish for sushi or molluscan shellfish; other raw ready-to-eat food, such as vegetables; and cooked ready-to-eat food;

(g) separating types of raw animal foods from each other, such as beef, fish, lamb, pork, and poultry, during storage, preparation, holding, and display by any of the following methods:

(i) using separate equipment for each type;

(ii) arranging raw animal products by cooking temperature, with those products requiring lower cooking temperatures at the top and those products requiring higher cooking temperatures at the bottom;

(iii) arranging each type of food in equipment so that cross-contamination of one type with another is prevented; or

(iv) preparing each type of food at different times or in separate areas.
(3) Enough conveniently located refrigeration facilities or effectively insulated facilities must be provided to assure the maintenance of potentially hazardous food at 41°F (5°C) during storage except as specified in ARM 37.110.203(61). Each refrigerated facility storing potentially hazardous food must be provided with a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C), located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording temperature measuring devices, accurate to ±3°F (1.5°C) may be used in lieu of indicating temperature measuring devices.

(4) Frozen food must be kept frozen.

(5) Enough conveniently located hot food storage facilities must be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food must be provided with a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C) located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording temperature measuring devices, accurate to ±3°F (1.5°C) may be used in lieu of indicating thermometers. Where it is impractical to install temperature measuring devices on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product temperature measuring device must be available and used to check internal food temperature.

(6) The internal temperature throughout potentially hazardous foods requiring hot storage must be 135°F (57.2°C) or above except during necessary periods of preparation. Potentially hazardous food to be transported must be held at a temperature of 135°F (57.2°C) or above unless maintained in accordance with (3) and (4) of this rule.

(7) In the event of a fire, flood, power outage, or similar event that might result in the contamination of food or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary within its statutory authority to protect the public health.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.207 FOOD PREPARATION

(1) Sinks used for the preparation of foods:

(a) must be cleaned and sanitized as required by ARM 37.110.215 immediately before beginning the preparation of the food; and

(b) may not be used for hand washing or waste water disposal.

(2) Food employees shall adhere to the requirements in ARM 37.110.210 in the preparation of food.
(3) Raw fruits and vegetables must be thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form. Fruits and vegetables may be washed by using chemicals approved by the EPA. Any sink used to wash, prepare, store, or soak food must be indirectly connected to the sewer through an air gap. (4) The following are requirements for the destruction of organisms of public health concern:

(a) Raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods, must be cooked to heat all parts of the food as measured by temperature measuring devices for the specified times listed below:

<table>
<thead>
<tr>
<th>Item</th>
<th>Temperature</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish and Meat</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Shell eggs individually ordered for immediate service</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Shell eggs prepared for other than individual order for immediate service</td>
<td>155°F (68°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Pork products</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Comminuted (ground) beef, pork and fish, exotic game, and injected meats (Choose any one)</td>
<td>145°F (63°C)</td>
<td>for 3 min</td>
</tr>
<tr>
<td></td>
<td>150°F (66°C)</td>
<td>for 1 min</td>
</tr>
<tr>
<td></td>
<td>155°F (68°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td></td>
<td>158°F (70°C)</td>
<td>for &lt; 1 sec</td>
</tr>
<tr>
<td>Poultry, wild game, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites</td>
<td>165°F (74°C)</td>
<td>for 15 sec</td>
</tr>
</tbody>
</table>
(b) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham must be cooked:

(i) in an oven that is preheated to the temperature specified for the roast’s weight in the following chart and that is held at that temperature;

<table>
<thead>
<tr>
<th>Oven type</th>
<th>Roast size: under 10 pounds</th>
<th>over 10 pounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Still dry oven</td>
<td>350°F (177°C)</td>
<td>250°F (121°C)</td>
</tr>
<tr>
<td>Convection oven</td>
<td>325°F (163°C)</td>
<td>250°F (121°C)</td>
</tr>
<tr>
<td>High humidity (&gt;90% for 1 hour); and</td>
<td>250°F (121°C)</td>
<td>250°F (121°C)</td>
</tr>
</tbody>
</table>

(ii) as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

<table>
<thead>
<tr>
<th>Cooking temperature</th>
<th>holding time</th>
</tr>
</thead>
<tbody>
<tr>
<td>130°F (54°C)</td>
<td>121 minutes</td>
</tr>
<tr>
<td>132°F (56°C)</td>
<td>77 minutes</td>
</tr>
<tr>
<td>134°F (57°C)</td>
<td>47 minutes</td>
</tr>
<tr>
<td>136°F (58°C)</td>
<td>32 minutes</td>
</tr>
<tr>
<td>138°F (59°C)</td>
<td>19 minutes</td>
</tr>
<tr>
<td>140°F (60°C)</td>
<td>12 minutes</td>
</tr>
<tr>
<td>142°F (61°C)</td>
<td>8 minutes</td>
</tr>
<tr>
<td>144°F (62°C)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>145°F (63°C)</td>
<td>3 minutes</td>
</tr>
</tbody>
</table>

(c) Subsections (4)(a) and (b) do not apply to raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw or partially cooked animal foods, that are served or offered for sale in a ready-to-eat form upon consumer request.
(d) A raw or undercooked whole muscle intact beef steak may be served or offered for sale in a ready-to-eat form if:

(i) the food service establishment serves a population that is not a highly susceptible population; and

(ii) the steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above, and a cooked color change is achieved on all external surfaces.

(e) Fruits and vegetables that are cooked for hot holding must be cooked to a temperature of 135°F (57.2°C).

(f) Raw animal foods cooked in a microwave oven shall be:

(a) rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(b) covered to retain surface moisture;

(c) heated to a temperature of a least 165°F (74°C) in all parts of the food; and

(d) allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

(6) Cooked and refrigerated food that is prepared for Immediate service in response to an individual consumer order, such as a roast beef sandwich au jus may be served at any temperature.

(7) The cooling of potentially hazardous food must be accomplished in the following manner:

(a) Cooked potentially hazardous food must be cooled as a continuous process:

(i) from 135°F (57.2°C) to 70°F (21°C) within 2 hours; and

(ii) from 70°F (21°C) to 41°F (5°C), or below, within 4 hours, or 45°F (7°C) or below as provided in ARM 37.110.203(61).

(b) Potentially hazardous food must be cooled to 41°F (5°C) or below, except as specified in ARM 37.110.203(61), within 4 hours if prepared from ingredients at ambient temperatures, such as reconstituted foods and canned tuna.

(c) A potentially hazardous food received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier must be cooled to 41°F (5°C) or below, or 45°F (7°C) or below, as provided in ARM 37.110.203(61) or to a temperature specified on the manufacturer’s label, within 4 hours.

(d) Cooling must be accomplished in accordance with the time and temperature criteria specified in (4)(a) through (c) of this rule using one or more of the following methods based on the type of food being cooled:

(i) placing the food in shallow pans;
(ii) separating the food into smaller or thinner portions;

(iii) using rapid cooling equipment;

(iv) stirring the food in a container placed in an ice water bath;

(v) using containers that facilitate heat transfer;

(vi) adding ice as an ingredient; or

(vii) other effective methods.

e) When placed in cooling or cold holding equipment, food containers in which food is being cooled must be arranged in the equipment to provide maximum heat transfer through the container walls and must be loosely covered. However, food may be uncovered if it is protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

8) Reheating for hot holding must be done as follows:

(a) Except as specified in (4)(b) through (e), potentially hazardous food that is cooked, cooled, and reheated for hot holding must be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) for 15 seconds.

(b) Potentially hazardous food reheated in a microwave oven for hot holding must be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.

(c) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the plant, must be heated to a temperature of at least 140°F (60°C) for hot holding.

(d) Reheating for hot holding must be done rapidly and the time the food is between the temperature 41°F and 165°F may not exceed 2 hours.

(e) Remaining unsliced portions of roasts of beef that are cooked asspecifiedunderARM37.110.207(4)(b)maybe reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under ARM 37.110.207(4)(b).

9) The following are approved methods of parasite destruction by freezing:

(a) Except as specified in (8)(b) of this rule, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than mollusk an shellfish that is served in ready-to-eat form must be frozen throughout to a temperature of:

(i) -4°F (-20°C) or below for 168 hours (7 days) in a freezer; or

(ii) -31°F (-35°C) or below for 15 hours in a blast freezer.
(b) If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (yellow fin tuna),
Thunnus atlanticus, Thunnus maccoyii (blue fin tuna, southern), Thunnus obesus (bigeye
tuna), or Thunnus thynnus (blue fin tuna, northern), the fish may be served or sold in a raw,
raw-marinated, or partially cooked ready-to-eat form without freezing as specified in (8)(a)
of this rule.

(10) Potentially hazardous food may not be held at temperatures above 45°F (7°C) for
refrigerated food, or below 135°F (57.2°C) for heated food, for more than:

(a) 4 hours, including the time needed for preparation for cooking; or

(b) the time specified in the cooling criteria in (7) of this rule.

(11) Potentially hazardous foods must be thawed:

(a) in refrigerated units at a temperature not to exceed 41°F (5°C), or as specified in ARM
37.110.203(61);

(b) under potable running water of a temperature of 70°F (22°C) or below, with sufficient
water velocity to agitate and float off loose food particles into the overflow for a period of
time that does not allow thawed portions of ready-to-eat food to rise above 45°F (5°C), or as
specified in (9) of this rule;

(c) in a microwave oven only when the food will be immediately transferred to conventional
cooking facilities as part of a continuous cooking process or when the entire, uninterrupted
cooking process takes place in the microwave oven; or (d) as part of the conventional
cooking process. (12) Food must be protected from:

(a) contamination that may result from the addition of:

(i) unsafe or unapproved food or color additives; and

(ii) unsafe or unapproved levels of approved food and color additives;

(b) application of sulfiting agents to fresh fruits and vegetables intended for raw
consumption or to a food considered to be a good source of vitamin B-1; or (c) service or
selling of food specified in (11)(b) of this rule that is treated with sulfiting agents before
receipt by the food service establishment, except that grapes need not meet this subsection.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff.
11/23/00.)

37.110.208 FOOD DISPLAY AND SERVICE

(1) Cold potentially hazardous food must be kept at an internal temperature of 41°F
(5°C), or as specified in ARM 37.110.203(61), or below, and hot potentially hazardous food
must be kept at an internal temperature of 135°F (57.2°C) or above during display and
service, except that rare roast beef shall be held for service at a temperature of at least
130°F (55°C).
(2) Ice for consumer use must be dispensed only by food employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic self service ice-dispensing equipment. Ice-dispensing utensils must be stored on a clean surface or in the ice with the dispensing utensil’s handle extended out of the ice. Between uses, ice transfer receptacles must be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap. Liquid water drain lines may not pass through an ice machine or ice storage bin unless the tubes are properly shielded or separated from the potable ice.

(3) Food must be protected from contamination by equipment, utensils, and wiping cloths by:

(a) preventing contact with wiping cloths that do not meet the requirements in ARM 37.110.215(6) through (8);

(b) preventing contact with surfaces of utensils and equipment that are not cleaned and sanitized;

(c) ensuring utensils are stored properly during pauses in food preparation or dispensing, as follows:

(i) except as specified in (3)(b), in the food with their handles above the top of the food and the container;

(ii) in food that is not potentially hazardous with their handles above the top of the food in containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon; (iii) in running water of sufficient velocity to flush particulates to the drain, if the utensils are used with moist food such as ice cream or mashed potatoes;

(iv) in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

(v) cleaning, sanitizing, and air drying between uses.

(4) In equipment that dispenses or vends liquid food or ice in unpackaged form:

(a) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food must be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food.

(b) The delivery tube, chute, and orifice must be protected from manual contact and be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(i) located in an outside area that does not afford the protection of an enclosure against rain, windblown debris, insects, rodents, and other contaminants; and

(ii) available for self-service during hours when it is not under the full-time supervision of a food employee.
(c) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment must be designed to prevent contact with the lip contact surface of glasses or cups that are refillable.

(5) Molluscan shellfish life-support system display tanks that are used to store and display shellfish that are offered for human consumption must be operated and maintained to ensure that: (a) water used with fish other than molluscan shellfish does not flow into the molluscan tanks; (b) the safety and quality of the shellfish as they were received are not compromised by use of the tank; and (c) the identity of the source of the shell stock is retained as specified in ARM 37.110.204(3).

(6) Date marking and disposition of ready-to-eat potentially hazardous food must be handled in the following manner:

(a) Refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than 24 hours in a food establishment must be clearly marked at the time of preparation to indicate the "sell by" date, "best if used by" date, or the date by which the food must be consumed which is, including the day of preparation:

(i) 7 calendar days or less from the day that the food is prepared, if the food is maintained at 41°F (5°C) or less; or

(ii) 4 calendar days or less from the day the food is prepared, if the food is maintained between 42° and 45°F (5.5° and 7°C).

(b) A container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food manufacturing establishment must be clearly marked to indicate the date by which the food must be consumed:

(i) 7 calendar days or less after the original container is opened, if the food is maintained at 41°F (5°C) or less; or

(ii) 4 calendar days or less from the day the original container is opened, if the food is maintained between 42°F and 45°F (5.5°C and 7°C).

(c) Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shut-off control that is activated at a temperature of:

(i) 41°F (5°C) or below must be discarded if not sold within 7 days; or

(ii) between 42°F and 45°F (5.5°C and 7°C) must be discarded if not sold within 4 days. (d) The requirements in (6)(a) and (b) of this rule do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(e) Subsection (6)(b) of this rule does not apply to whole, unsliced portions of a cured and processed food product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.
(7) Time is allowable as a public health control. (a) Time only, rather than time in conjunction with temperature, maybe used as the public health control for a working supply of potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, if the following requirements are met:

(i) the food is marked or otherwise identified with the time within which it must be cooked, served, or discarded;

(ii) the food is served or discarded within 4 hours from the time when the food is removed from temperature control;

(iii) food in unmarked containers or packages, or for which the time expires, is discarded; and

(iv) written procedures are maintained in the food establishment and made available to the regulatory authority upon request to ensure compliance with (7)(a)(i) through (iii) of this rule and ARM 37.110.206 for food that is prepared, cooked, and refrigerated before time is used as a public health control. (b) Once time is implemented as a control measure for potentially hazardous food, no other measures may be substituted.

(8) Food on display for self-service by the consumer must be protected from contamination by:

(a) use of packaging; counter, service line, or salad bar food guards; display cases; or similarly effective means;

(b) providing suitable utensils or effective dispensing methods for self-service operations for ready-to-eat foods;

(c) protecting condiments by using:

(i) dispensers that are designed to provide protection;

(ii) food display units provided with proper dispensing utensils;

(iii) original containers designed for dispensing; or

(iv) individual packages or portions; and

(d) not allowing food that has been served or sold and in the possession of a consumer and that is unused or returned by the consumer to be offered again as food for human consumption. However, food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold to that population that is not classified as highly susceptible; (e) not allowing self-service consumers to use soiled tableware, including single-service articles, to obtain additional food from display and serving equipment. However, cups and glasses may be reused if refilling is a contamination free process. A sign similar to the one shown must be posted to inform the consumer of this requirement: "CONSUMER: Please obtain clean tableware before obtaining additional food."
37.110.209 FOOD TRANSPORTATION

(1) During transportation, food and food utensils must be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be over wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food must meet the requirements of this subchapter relating to food protection and food storage.

37.110.210 FOOD EMPLOYEES

(1) No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, diarrhea illness or acute gastrointestinal illness or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons. Food employees experiencing persistent sneezing, coughing or runny nose that causes discharges from the eyes, nose or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(2) Food employees and other authorized persons shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

(3) Food employees shall clean their hands in a hand washing facility that conforms to the requirements in ARM 37.110.221.

(4) Food employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm running water after any of the following activities:

(a) immediately before engaging in food preparation, including working with exposed food, clean equipment and utensils and unwrapped single-service and single-use articles;

(b) during food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(c) when switching between working with raw foods and working with ready-to-eat foods;

(d) after handling soiled equipment or utensils;

(e) after coughing, sneezing, using a handkerchief or disposable tissue;

(f) after using the toilet room;
(g) after eating, drinking or using tobacco;

(h) after touching bare human body parts other than clean hands and clean, exposed portions of arms;

(i) after caring for or handling support animals; or

(j) after engaging in other activities that contaminate the hands.

(5) If used, chemical hand sanitizers must:

(a) have active antimicrobial ingredients that are listed as safe and effective for application to human skin as an antiseptic handwash pursuant to the U.S. food and drug administration’s regulations for over-the-counter health-care antiseptic drug products; and

(b) have only components that are:

(i) regulated for the intended use as food additives as specified in 21 CFR 178; or

(ii) generally recognized as safe for the intended use in contact with food within the meaning of the federal Food, Drug, and Cosmetic Act, section 201(s); and

(c) be applied only to hands and arms that are cleaned with a cleaning compound in a hand washing facility by thoroughly rubbing together the surfaces of their lathered hands and arms and thoroughly rinsing with clean water;

(d) if a hand sanitizer or a chemical hand sanitizing solution used as a hand dip does not meet the criteria specified in (5)(a) through (c) of this rule, use must be:

(i) followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

(ii) limited to situations that involve no direct contact with food by the bare hands;

(e) a chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100mg/L chlorine.

(6) Food employees in a food establishment shall adhere to the following requirements to prevent contamination of food:

(a) minimize contact with exposed ready-to-eat food with bare hands by using utensils such as deli tissue, spatula, tongs, single-use gloves or dispensing equipment;

(b) minimize contact of bare hands and arms with exposed food that is not in a ready-to-eat form;

(c) use single-use gloves for only one task, such as working with ready-to-eat food or with raw animal food; use them for no other purpose; and discard them when they are damaged or soiled or when interruptions occur in the food operation;
(d) use clean slash-resistant gloves with ready-to-eat foods that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or are covered with a smooth, durable, nonabsorbent glove, or single-use glove; (e) use a utensil only once to taste food that is to be sold or served.

(7) Food employee practices must conform to the following requirements:

(a) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(b) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

(c) While preparing food, food employees may not wear jewelry on their arms and hands except a simple wedding band.

(d) Food employees shall wear clean outer clothing. If uniforms are not provided, clean outer coverings must be worn over clothing or the employee shall change to clean clothing if their clothing is soiled.

(e) Food employees may eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils and linens; unwrapped single-service and single-use articles; or other items needing protection cannot occur. However, a food employee may drink from a closed beverage container if the container is handled to prevent contamination of the food employee's hands, the container; exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles.

(f) Food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair. The hair restraints must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single service and single-use articles.

(i) Subsection (7)(f) does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

(8) Persons unnecessary to the food establishment operation may not be allowed in the food preparation, food storage, or warewashing areas, except as allowed by the person in charge if steps are taken to ensure that exposed food, clean equipment, utensils and linens; and unwrapped single-service and single-use articles are protected from contamination.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

Rule 11 reserved

37.110.212 MATERIALS FOR EQUIPMENT AND UTENSILS
(1) Equipment and utensils must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(2) Cast iron may not be used for utensils or food contact surfaces of equipment except as a surface for cooking. However, cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(3) If solder is used, it must be composed of safe materials and be corrosion resistant. Solder and flux containing lead in excess of 0.2% may not be used on surfaces that contact food.

(4) Use of wood is limited as follows:
   (a) Except as specified in (4)(b) through (e) of this rule, wood and wood wicker may not be used as a food contact surface.
   (b) Hard maple or an equivalently hard, close-grained wood may be used for:
      (i) cutting boards; cutting blocks; bakers’ tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and non-single-service chopsticks; and
      (ii) wooden paddles used in confectionery operations for Pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.
   (c) Whole uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.
   (d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
      (i) untreated wood containers; or
      (ii) treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800.
   (e) Wood may be used for single-service articles, such as chopsticks, stirrers and ice cream spoons.

(5) Cutting surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and sanitized, or be discarded if they are not capable of being sanitized.

(6) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, and that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods are permitted for repeated use.

(7) Mollusk and crustacea shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.
(8) Re-use of single-service articles is prohibited.

(9) Ceramic, china, crystal utensils, and decorative utensils, such as hand painted ceramic or china, that are used in contact with food must be lead-free or contain levels of lead not exceeding the following limits:

### Lead Content in Utensils

<table>
<thead>
<tr>
<th>Utensil Category</th>
<th>Description</th>
<th>Maximum Lead</th>
</tr>
</thead>
<tbody>
<tr>
<td>hot beverage mugs</td>
<td>coffee mugs</td>
<td>0.5 mg/L</td>
</tr>
<tr>
<td>large hollowware</td>
<td>bowls &gt; 1.16 Qt/[1.1L]</td>
<td>1 mg/L</td>
</tr>
<tr>
<td>small hollowware</td>
<td>bowls &lt; 1/16 Qt/[1.1L]</td>
<td>2.0 mg/L</td>
</tr>
<tr>
<td>flat utensils</td>
<td>plates, saucers</td>
<td>3.0 mg/L</td>
</tr>
</tbody>
</table>

(10) Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine; and may not be used for a fitting or tubing installed between a backflow prevention device and a carbonator.

(11) Galvanized metal may not be used for utensils or food contact surfaces of equipment that are used for beverages, acidic food, and moist food.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.213 EQUIPMENT AND UTENSIL DESIGN AND FABRICATION

(1) All equipment and utensils, including plastic-ware, must be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(2) Food contact surfaces must be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads must be designed to facilitate cleaning; ordinary "v" type threads are prohibited in food contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads must be minimized.
(3) Equipment containing bearings and gears requiring unsafe lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces. Only food-safe lubricants must be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.

(4) Tubing and cold plates conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units must not pass through the ice machine or the ice storage bin unless the tubes are properly shielded or separated from the potable ice.

(5) Sinks and drainboards must be self-draining.

(6) Unless designed for in-place cleaning, food contact surfaces must be accessible for cleaning and inspection:

(a) without being disassembled;

(b) by disassembling without the use of tools; or

(c) by easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

(7) Equipment intended for in-place cleaning must be designed and fabricated so that:

(a) cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;

(b) cleaning and sanitizing solutions will contact all interior food contact surfaces; and

(c) the system is self-draining or capable of being completely evacuated.

(8) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods must have sealed electrical wiring, switches, and connections.

(9) Temperature measuring devices are required in all food establishments and must meet the following requirements:

(a) may not have sensors or stems constructed of glass, except that temperature measuring devices with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used;

(b) must have a numerical scale, printed record, or digital readout in increments no greater than 2°F (1°C);

(c) must be designed to be easily readable;

(d) devices that are used to check food temperatures must be scaled only in Celsius or scaled only in Fahrenheit or dually scaled in Celsius and Fahrenheit and must be accurate to ±2°F (±1°C);
(e) devices that are used to measure ambient air and water temperature that are scaled in
Celsius or dually scaled in Celsius and Fahrenheit must be designed to be easily readable
and accurate to ±3°F (±1.5°C) at the use range;

(f) in a mechanically refrigerated or hot food storage unit, the sensor of a temperature
measuring device must be located to measure the air temperature in the warmest part of a
mechanically refrigerated unit and in the coolest part of a hot food storage unit;

(g) cold or hot holding equipment used for storing or displaying potentially hazardous food
must be designed to include and must be equipped with at least one integral or
permanently affixed temperature measuring device that is located to allow easy viewing of
the device's temperature display; and

(h) subsection (9) does not apply to equipment such as heat lamps, cold plates, bainsmarie,
steam tables, insulated food transport containers, and salad bars when the placement of a
temperature measuring device is not a practical means for measuring the ambient air
surrounding the food because of the design, type, and use of the equipment. (10) Surfaces of
equipment not intended for contact with food, but which are exposed to splash or food
debris or which otherwise require frequent cleaning must be designed and fabricated to be
smooth, washable, free of unnecessary ledges, projections, or crevices, and readily
accessible for cleaning, and must be of such material and in such repair as to be easily
maintained in a clean and sanitary condition. Unfinished wood is not acceptable as a non-
food contact surface in areas utilized for food preparation, equipment, or utensil washing.

(11) Hoods must be installed at or above all commercial type deep fat fryers, broilers, fry
grills, steam-jacketed kettles, hot-top ranges, ovens, barbecues, rotisseries, dishwashing
machines, and similar equipment which produce comparable amounts of steam, smoke,
grease, or heat.

(12) Ventilation hoods and devices must be designed to prevent grease or condensation
from collecting on walls and ceilings, and from dropping into foods or onto food contact
surfaces.

(13) Filters or other grease extracting equipment must be readily removable for cleaning
and replacement if not designed to be cleaned in place.

(14) Hoods, filters, hood fire extinguishing equipment and other ventilation system items
must be kept clean.

(15) Equipment that was installed in a food service establishment prior to the effective date
of this rule, and that does not fully meet all of the design and fabrication requirements of
this rule, will be deemed acceptable in that establishment if it is in good repair, capable of
being maintained in a sanitary condition, and the food contact surfaces are non-toxic.
Replacement equipment and new equipment acquired after the effective date of this rule
must meet the requirements of this subchapter.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff.
7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; AMD, 1986 MAR p. 1076, Eff. 6/27/86;
TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)
37.110.214 EQUIPMENT INSTALLATION AND LOCATION

(1) General equipment, including ice makers and ice storage equipment, may not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads.

(2) Equipment that is placed on tables or counters, unless easily movable, must be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(3) Equipment is easily movable within the meaning of (2) of this rule if:

(a) it is small and light enough to be moved easily by one person; and

(b) it has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(4) Floor-mounted equipment, unless easily movable, must be:

(a) sealed to the floor;

(b) installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

(c) elevated on legs to provide at least a 6-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a 4-inch clearance between the floor and equipment if no part of the floor under the mixer is more than 6 inches from cleaning access.

(5) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings must not be more than 1/32 inch; or if exposed to seepage, the equipment must be sealed to the adjoining equipment or adjacent walls or ceilings.

(6) Aisles and working spaces between units of equipment and walls must be unobstructed and of sufficient width to permit food employees and other authorized persons to perform their duties readily without contamination of food or food contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies must be positioned to provide accessibility to working areas. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.215 EQUIPMENT AND UTENSIL CLEANING AND SANITATION

(1) Tableware must be washed, rinsed, and sanitized after each use.
(2) To prevent cross contamination, kitchenware and food contact surfaces of equipment must be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food contact surfaces of equipment must be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(4) The food contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens must be cleaned at least once a day. This requirement does not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment must be kept free of encrusted grease deposits and other accumulated soil.

(5) Non-food contact surfaces of equipment must be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(6) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, must be clean, dry and used for no other purpose.

(7) Moist cloths used for wiping food spills on food contact and nonfood contact surfaces of equipment must be laundered as required, stored in a chemical sanitizer and maintain sanitizing strength at the point of use.

(8) Dry or moist cloths that are used with raw animal foods must be kept separate from cloths used for other purposes, and the moist cloths used with raw animal foods must be kept in a separate sanitizing solution.

(9) Sponges may not be used in contact with cleaned and sanitized or in-use food contact surfaces.

(10) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments must be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink must be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments must be washed manually or cleaned through pressure spray methods.

(11) Drainboards or easily movable dish tables of adequate size must be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and must be located so as not to interfere with the proper use of the dishwashing facilities.

(12) Equipment and utensils must be pre flushed or pre-scraped and, when necessary, presoaked to remove food particles and soil.
Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing must be conducted in the following manner:

(a) Sinks must be cleaned prior to use;

(b) Equipment and utensils must be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;

(c) Equipment and utensils must be rinsed free of detergent and abrasives with clean water in the second compartment;

(d) Equipment and utensils must be sanitized in the third compartment according to one of the methods included in (14)(a) through (g) of this rule.

The food contact surfaces of all equipment and utensils must be sanitized by:

(a) immersion for at least 30 seconds in clean, hot water at a temperature of at least 170°F (77°C);

(b) immersion for at least 30 seconds in a clean solution containing at least 100 parts per million but not more than 200 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F (24°C);

(c) immersion for at least 30 seconds in a clean solution containing at least 12.5 parts per million but not more than 25 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F (24°C);

(d) immersion for at least 30 seconds in a clean solution containing no more than 200 parts per million of quaternary ammonium compound used by following manufacturer's instructions;

(e) immersion in a clean solution containing any other chemical sanitizing agent approved by the EPA that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F (24°C) for 30 seconds;

(f) treatment with steam free from unsafe materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined and raises the surface temperature to 160°F (72°C) or above; or

(g) rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under (14)(a) through (e) of this rule in the case of equipment too large to sanitize by immersion.

When hot water is used for sanitizing, the following facilities must be provided and used:

(a) an integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F (77°C);
(b) a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C),
convenient to the sink for frequent checks of water temperature; and

c) dish baskets of such size and design to permit complete immersion of the tableware,
kitchenware, and equipment in the hot water.

(16) When chemicals are used for sanitization, they must not have concentrations higher
than the maximum permitted in (14), and a test kit or other device that accurately measures
the parts per million concentration of the solution must be used.

(17) Cleaning and sanitizing may be done by spray-type or immersion dishwashing
machines or by any other type of machine or device if it is demonstrated that it thoroughly
cleans and sanitizes equipment and utensils. These machines and devices must be properly
installed and maintained in good repair. Machines and devices must be operated in
accordance with manufacturers' instructions, and utensils and equipment placed in the
machine must be exposed to all dishwashing cycles. Automatic detergent dispensers,
wetting agent dispensers, and liquid sanitizer injectors, if any, must be properly installed
and maintained.

(18) The pressure of final rinse water supplied to spray-type dishwashing machines must
not be less than 15 nor more than 25 pounds per square inch measured in the water line
immediately adjacent to the final rinse control valve. A 1/4 inch IPS valve must be provided
immediately up stream from the final rinse control valve to permit checking the flow
pressure of the final rinse water.

(19) Machine or water line mounted numerically scaled indicating temperature measuring
devices, accurate to ±3°F (1.5°C), must be provided to indicate the temperature of the water
in each tank of the machine and the temperature of the final rinse water as it enters the
manifold.

(20) Rinse water tanks must be protected by baffles, curtains, or other effective means to
minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines
must be accurately timed to assure proper exposure times in wash and rinse cycles in
accordance with manufacturers’ specifications attached to the machines.

(21) Drainboards must be provided and be of adequate size for the proper handling of
soiled utensils prior to washing and of cleaned utensils following sanitization and must be
so located and constructed so as not to interfere with the proper use of the dishwashing
facilities. This does not preclude the use of easily movable dish tables for the storage of
soiled utensils or the use of easily movable dish tables for the storage of clean utensils
following sanitization.

(22) Equipment and utensils must be flushed or scraped and, when necessary, soaked to
remove gross food particles and soil prior to being washed in a dishwashing machine unless
a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils
must be placed in racks, trays, or baskets, or on conveyors, in a way that food contact
surfaces are exposed to the unobstructed application of detergent wash and clean rinse
waters and that permits free draining.
(23) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided:

(a) The temperature of the wash water may not be less than 120°F (49°C);

(b) The wash water must be kept clean.

(c) Chemicals added for sanitization purposes shall be automatically dispensed;

(d) Utensils and equipment must be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration;

(e) The chemical sanitizing rinse water temperature may not be less than 75°F (24°C) or less than the temperature specified by the machine's manufacturer;

(f) Chemical sanitizers used must be approved by the EPA;

(g) A test kit or other device that accurately measures the parts per million concentration of the solution must be available and used.

(24) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water must be kept clean and water must be maintained at not less than the temperature stated below:

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>(a)</strong> Single-tank, stationary-rack, dual-temperature machine:</td>
<td></td>
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<tr>
<td>Wash temperature</td>
<td>150°F (66°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
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<tr>
<td><strong>(b)</strong> Single-tank, stationary-rack, single-temperature machine:</td>
<td></td>
</tr>
<tr>
<td>Wash temperature</td>
<td>165°F (74°C)</td>
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<tr>
<td>Final rinse temperature</td>
<td>165°F (74°C)</td>
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<td><strong>(c)</strong> Single-tank, conveyor machine:</td>
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</tr>
<tr>
<td>Wash temperature</td>
<td>160°F (72°C)</td>
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<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
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<tr>
<td><strong>(d)</strong> Multi-tank, conveyor machine:</td>
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<tr>
<td>Wash temperature</td>
<td>150°F (66°C)</td>
</tr>
<tr>
<td>Pumped rinse temperature</td>
<td>160°F (72°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
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</tbody>
</table>
(e) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):

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<tr>
<td>Wash temperature</td>
<td>140°F (60°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
</tr>
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</table>

(25) Machines using hot water for sanitizing must achieve a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator.

(26) All dishwashing machines must be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(27) After sanitization, all equipment and utensils must be air dried.

(28) Food service establishments using a dishwashing machine shall provide a manual dish washing facility described in ARM 37.110.215(10) or provide a plan acceptable to the regulatory authority to adequately clean, rinse and sanitize utensils, in case the dishwashing machine is not functional.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.216 EQUIPMENT AND UTENSIL STORAGE

(1) Cleaned and sanitized equipment and utensils must be handled in a way that protects them from contamination. Spoons, knives, and forks must be touched only by their handles. Cups, glasses, bowls, plates and similar items must be handled without contact with inside surfaces or surfaces that contact the user's mouth.

(2) Cleaned and sanitized utensils and equipment must be stored at least 6 inches above the floor in a clean, dry location in away that protects them from contamination by splash, dust, and other contaminants. The food contact surfaces of fixed equipment must also be protected from contamination. Equipment and utensils may not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that maybe required by law.

(3) Utensils must be air dried before being stored or must be stored in a self-draining position.

(4) Glasses and cups must be stored inverted. Other stored utensils must be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons must be designed and used to present the handle to the food employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks, and spoons at self-service locations must protect these articles from contamination and present the handle of the utensil to the consumer.
(5) Single-service articles must be stored at least 6 inches above the floor in closed cartons or containers which protect them from contamination and may not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads.

(6) Single-service articles must be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(7) Single-service knives, forks, and spoons packaged in bulk must be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are pre-wrapped or prepackaged, holders must be provided to protect these items from contamination and present the handle of the utensil to the consumer.

(8) The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.217 WATER SUPPLY

(1) Enough potable water for the needs of the food service establishment must be provided from a source constructed and operated in accordance with Title 75, chapter 6, MCA, and ARM Title 17, chapter 38, subchapters 1 and 2, applicable to public water and wastewater systems.

(2) All potable water not provided directly by pipe to the food service establishment from the source must be transported in a bulk water transport system in accordance with ARM Title 17, chapter 38, subchapter 5, Water Hauled for Cisterns.

(3) Bottled and packaged potable water must be obtained from a source that complies with (1) above and must be handled and stored in a way that protects it from contamination. Bottled and packaged potable water must be dispensed from the original container.

(4) Water under pressure at the required temperatures must be provided to all fixtures and equipment that use water.

(5) Steam used in contact with food or food contact surfaces must be free from any unsafe materials or additives.

(6) A reservoir that is used to supply water to a device such as a produce mister must be:

(a) maintained in accordance with manufacturer's specifications; and

(b) cleaned in accordance with manufacturer's specifications or according to the following procedures, whichever is more stringent:

(i) cleaning at least once a week by:

(A) draining and complete disassembly of the water and aerosol contact parts;
(B) brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(C) flushing the complete system with water to remove the detergent solution and particulate accumulation; and

(D) rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.

(7) The department hereby adopts and incorporates by reference ARM Title 17, chapter 38, subchapters 1, 2 and 5, which are Montana department of environmental quality rules setting forth, respectively, maximum contaminant levels allowed in public drinking water supplies, requirements for the equipment and operation of systems for hauling water for cisterns, and plan review requirements for public water and wastewater systems. Copies of ARM Title 17, chapter 38, subchapters 1, 2 and 5 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, P.O. Box 202951, Helena, MT 59620-2951.

(8) Food service establishments with existing water systems that will not be changed or modified in their uses may not be subject to some or all of the provisions of Title 75, chapter 6, MCA, and ARM Title 17, chapter 38. These water systems must comply with the applicable laws and approval conditions that were in place at the time of the systems’ approval. Also, these systems must comply with current monitoring, reporting, and drinking water quality requirements. Information on any of the requirements of this rule may be obtained from the Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

(History: Sec. 50-50-103, MCA;IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.218 SEWAGE

(1) All sewage, including liquid waste, must be disposed of by a public sewerage system or by a sewage treatment and disposal system constructed and operated in accordance with Title 75, chapter 6, MCA, and ARM Title 17, chapter 38, subchapter 1, plans for public water and wastewater systems. Non-water-carried sewage disposal facilities are prohibited, except as permitted by ARM 37.110.236(10) pertaining to temporary food service establishments or as permitted by the regulatory authority in remote areas or because of special situations.

(2) The department hereby adopts and incorporates by reference ARM Title 17, chapter 38, subchapter 1 which is a set of Montana department of environmental quality rules setting forth plan review requirements for public water and wastewater systems. A copy of ARM Title 17, chapter 38, subchapter 1 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, P.O. Box 202951, Helena, MT 59620-2951.
(3) Food service establishments with existing sewage systems that will not be changed or be modified in their uses may not be subject to some or all of the provisions of Title 75, chapter 6, MCA and ARM Title 17, chapter 38. These systems comply with the applicable state and local laws and approval conditions that were in place at the time of the systems’ approval. The Montana department of environmental quality may have other laws and regulations that apply. Information or any of the requirements of this rule may be obtained from the Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

(History:Sec.50-50-103,MCA;IMP,Sec.50-50-103,MCA;NEW,1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.219 PLUMBING

(1) Plumbing must be installed and maintained in a manner which prevents cross-connections between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(2) A non-potable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any non-potable water system must be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) The potable water system must be installed to preclude the possibility of backflow. Devices must be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture’s flood level rim. A hose may not be attached to a faucet unless a backflow prevention device is installed.

(4) If used, grease traps must be located to be easily accessible for cleaning.

(5) If used, garbage disposals must be installed to preclude potential cross-connections between sewer and potable water systems. Garbage disposals must be maintained in a clean and sanitary manner at all times.

(6) There may not be a direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed.


37.110.220 TOILET FACILITIES

(1) Toilet facilities must be provided for food employees and other authorized persons. These toilet facilities must be conveniently located and readily accessible to food employees and other authorized persons during all times the establishment is in operation. Conveniently located as related to toilet facilities located within 200 feet by a normal
pedestrian route of all locations of the food service operation and not more than one floor-
to-floor flight of stairs.

(2) Food employees, other authorized persons and customers may use the same toilet
facilities provided that patrons may use them without entering the food storage, food
preparation, or food service areas or the dishwashing or utensil storage areas of the
establishment.

(3) When customer facilities are provided, they must be maintained in good repair and be
kept clean at all times.

(4) Food service establishments which must use privy type toilets must be evaluated on an
installation-by-installation basis.

(5) Toilets and urinals must be designed to be easily cleanable.

(6) Toilet fixtures must be kept clean and in good repair.

(7) Toilet rooms must be completely enclosed, and must have tight-fitting, self-closing
doors. Such doors may not be left open except during cleaning or maintenance. If vestibules
are provided, they must be kept in a clean condition and good repair.

(a) The lack of doors on toilets serving large numbers of people such as sports arenas must
be evaluated on a case-by-case basis.

(8) A supply of toilet tissue in a wall-hung or protected container must be provided at each
toilet at all times. Easily cleanable receptacles must be provided for waste materials. Such
receptacles must be emptied at least once a day, and more frequently when necessary to
prevent excessive accumulation of waste material.

(9) All toilet rooms must be vented to the outside. In addition, mechanical ventilation must
be provided in new or newly remodeled toilet rooms.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff.
7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; AMD, 1986 MAR p. 1076, Eff. 6/27/86;
TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.221 HAND WASHING FACILITIES

(1) Hand washing facilities must be constructed, installed, and maintained to facilitate
cleaning.

(2) Customers are prohibited from entering the food preparation, food service, food storage
or utensil washing areas to use hand washing facilities.

(3) Hand washing facilities for food employees must be located within the area or areas
where food is prepared or served and in utensil washing areas.

(a) The number and location of hand washing facilities in the areas will be determined by
the convenience of the hand washing facility to the food employees.
(4) Hand washing facilities located outside and immediately adjacent to toilet rooms may also serve the food preparation, food service or utensil washing areas if convenient.

(5) Service sinks and utensil washing sinks may be used as hand washing facilities if properly located, equipped, maintained, and continuously available for hand washing.

(6) Sinks used for food preparation or curbed cleaning sinks used for mop water disposal may not be used for hand washing.

(7) Each hand washing facility must be provided with warm running water by means of a mixing valve or combination faucet. Any self-dispensing, slow-closing, or metering faucet used must be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.

(8) A supply of hand-cleansing soap or detergent must be available at each hand washing facility.

(9) A supply of disposable towels in a wall-hung or protected container, a continuous towel system that supplies the user with a clean towel, or a hand drying device providing heated air must be conveniently located near each hand washing facility. Common towels are prohibited. When disposable towels are used, easily cleanable waste receptacles must be conveniently located near the hand washing facility.

(10) Hand washing facilities, soap dispensers, hand drying devices and all related fixtures must be kept clean and in good repair.


37.110.222 GARBAGE AND REFUSE

(1) Garbage and refuse must be kept in durable, easily cleanable, insect proof and rodent proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

(2) Containers used in food preparation and utensil washing areas must be kept covered after they are filled or when not in active use.

(3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems must be easily cleanable, must be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs must be in place at all times, except during cleaning.

(4) There must be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(5) Soiled containers must be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way
that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, must be provided and used for washing containers. Liquid waste from compacting or cleaning operations must be disposed of as sewage.

(6) Garbage and refuse on the premises must be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

(7) Garbage or refuse storage rooms, if used, must be constructed of easily cleanable, nonabsorbent, washable materials; be kept clean; be insect-proof and rodent-proof; and be large enough to store the garbage and refuse containers that accumulate.

(8) Outside storage areas or enclosures must be large enough to store the garbage and refuse containers that accumulate and must be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside must be stored on or above a smooth surface of nonabsorbent materials such as concrete or machine-laid asphalt that is kept clean and maintained in good repair. (9) Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. (10) Where garbage or refuse is burned on the premises, it must be done by controlled incineration that prevents the escape of particulate matter in accordance with the Montana Clean Air Act, 75-2-101, et seq., MCA and associated administrative rules. Areas around incineration facilities must be clean and orderly.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.223 INSECT AND RODENT CONTROL

(1) Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises must be utilized. The premises must be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(2) Devices that are used to electrocute flying insects must be designed to have escape-resistant trays. Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence must be installed so that:

(a) the devices are not located within 5 feet of a food preparation area; and

(b) dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, and lines, and unwrapped single-service and single-use articles.

(3) Dead or trapped birds, insects, rodents and other pests must be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.
(4) Rodent bait must be contained in covered, tamper-resistant bait stations.

(5) Tracking powder pesticide may not be used in a food service establishment. A nontoxic tracking powder such as talcum or flour may be used, but may not contaminate food, equipment, utensils, linens, and single-service articles.

(6) Openings to the outside must be effectively protected against the entrance of rodents. Outside openings must be protected against the entrance of insects by tight-fitting, self closing doors, closed windows, screening, controlled air currents, or other means. Screen doors must be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside must be tight-fitting and free of breaks. Screening material must not be less than 16 mesh to the inch.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

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37.110.225 FLOORS

(1) Floors and floor coverings of all food preparation, food storage, and utensil washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules must be constructed of smooth, durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Anti-slip floor covering in areas necessary for safety reasons may be used.

(2) Carpeting, if used as a floor covering, must be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment washing and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

(3) The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

(4) Properly installed, trapped floor drains must be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors must be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and must be graded to drain.

(5) Mats and duckboards must be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards may not be used as storage racks.

(6) In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the
junctures between walls and floors must be covered and sealed. In all other cases, the juncture between walls and floors may not present an open seam of more than 1/32 inch.

(7) Exposed utility service lines and pipes must be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.226 WALLS AND CEILINGS

(1) Walls and ceilings, including doors, windows, skylights, and similar closures, must be maintained in good repair.

(2) The walls, including non supporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules must be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations must be finished and sealed to provide an easily cleanable surface.

(3) Studs, joists, and rafters may not be exposed in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they must be finished to provide an easily cleanable surface.

(4) Exposed utility service lines and pipes must be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes may not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules.

(5) Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings must be easily cleanable and must be maintained in good repair.

(6) Wall and ceiling covering materials must be attached and sealed so as to be easily cleanable.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.227 CLEANING PHYSICAL FACILITIES

(1) Cleaning of floors and walls, except emergency cleaning of floors, must be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials must be kept clean. Floors and walls must be cleaned by dustless methods, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweeping compounds with brooms.
(2) In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain must be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of hand washing facilities, utensil washing or equipment washing, or food preparation sinks for this purpose is prohibited.

(3) When service sinks are used as a hand washing facility, such sinks must be located to prevent potential contamination of food or food contact surfaces of equipment and utensils.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1986 MAR p. 1076, Eff. 6/27/86; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.228 LIGHTING

(1) Permanently fixed artificial light sources must be installed to provide at least 50 foot-candles of light on all food preparation surfaces and at equipment or utensil washing work levels.

(2) Permanently fixed artificial light sources must be installed to provide, at a distance of 30 inches from the floor:

(a) at least 20 foot-candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

(b) at least 10 foot-candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This requirement includes dining areas during cleaning operations.

(3) Shielding to protect against broken glass falling onto food must be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

(4) Infrared or other heat lamps must be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.229 VENTILATION

(1) All rooms must have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. When vented to the outside, the system may not create an unsightly, harmful or unlawful discharge.

(2) Intake and exhaust air ducts must be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(3) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate must be mechanically vented to the outside.
37.110.230 DRESSING ROOMS AND LOCKER AREAS

(1) If food employees and other authorized persons routinely change clothes within the establishment, rooms or areas must be designated and used for that purpose. These designated rooms or areas may not be used for food preparation, storage or service, or for utensil washing or storage.

(2) Enough lockers or other suitable facilities must be provided and used for the orderly storage of food employee and other authorized person’s clothing and other belongings. Lockers or other suitable facilities must be located in the designated dressing rooms, in food storage rooms, or areas containing only completely packaged food or packaged single-service articles.

37.110.231 TOXIC MATERIALS

(1) There shall be present in foodservice establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents. This rule does not apply to packaged poisonous or toxic materials that are for retail sale.

(2) Containers of poisonous or toxic materials and personal care items must bear a legible manufacturer’s label.

(3) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies must be clearly and individually identified with the common name of the material.

(4) Poisonous or toxic materials consist of the following categories:

(a) pesticides;

(b) detergents, sanitizers, related cleaning or drying agents, caustics, acids, polishes, and other chemicals;

(c) substances necessary for the operation and maintenance of the establishment such as nonfood-grade lubricants and personal care items that may be deleterious to health; and (d) substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(5) All poisonous or toxic materials must be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials may not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or
sanitizers at utensil or dishwashing stations as long as storage requirements are followed as outlined on the manufacturer's label or a material safety data sheet, and containers are properly labeled.

(6) Sanitizers, cleaning compounds or other compounds intended for use on food contact surfaces may not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to food employees or other persons.

(7) Poisonous or toxic materials may not be used in a way that contaminates food, equipment, or utensils; in a way that constitutes a hazard to food employees or other persons; or in a way that is contrary to the manufacturers' labeling. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. Drying agents used in conjunction with sanitization must contain only components that are approved by the EPA.

(8) Only those medicines necessary for the health of food employees and other authorized persons are allowed in a food establishment. Medicines for food employees and other authorized person's use must be labeled as specified in ARM 37.110.231(2) and located to prevent the contamination of food, equipment, utensils, linens, and single-service articles. This rule does not apply to medicines that are stored or displayed for retail sale.

(9) First-aid supplies must be stored in a way that prevents them from contaminating food and food contact surfaces.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1986 MAR p. 1076, Eff. 6/27/86; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.232 PREMISES

(1) Food service establishments and all parts of property used in connection with their operations must be kept free of litter.

(2) The walking and driving surfaces of all exterior areas of food service establishments must be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces must be graded to prevent pooling and must be kept free of litter.

(3) Only articles necessary for the operation and maintenance of the food service establishment must be stored on the premises.

(4) The traffic of unnecessary persons through the food preparation and utensil washing areas is prohibited.

(5) Any operation of a food service establishment may not be conducted in any room used as living quarters, sleeping quarters or other non-food operations. Food service operations must be separated from any living or sleeping quarters by complete partitioning and with solid self-closing doors.
(6) Laundry facilities in a food service establishment must be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer must be provided and used.

(a) Separate rooms must be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(b) A mechanical washer and dryer is not required if on-premise laundering is limited to wiping cloths. The wiping cloths may be laundered in a warewashing or service sink that is cleaned before and after use. If air-dried, the cloths must be dried in a location that prevents the contamination of food, equipment, utensils and linens.

(7) Clean clothes and linens must be stored in a clean place and protected from contamination until used.

(8) Soiled clothes and linens must be stored in non-absorbent containers or washable laundry bags until removed for laundering.

(9) Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment must be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and must be stored in an orderly manner for the cleaning of that storage location.

(10) Except as specified in live animals are prohibited from the premises of a food establishment.

(11) Live animals may be allowed in the following situations if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles will not occur:

(a) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(b) patrol dogs accompanying police or security officers in offices and dining rooms, sales and storage areas, and sentry dogs running loose in outside fenced areas;

(c) in areas that are not used for food preparation such as dining and sales areas, support animals such as guide dogs that are trained to assist a food employee or other person who is disabled, are controlled by the disabled food employee or disabled person and are not allowed to be on seats or tables;

(d) live or dead fish bait that is stored so that contamination of food, clean equipment, utensils and linens, and unwrapped single-service and single-use articles will not occur; and

(e) pets in the common dining areas of group residences at times other than during meals if:

(i) a partition of self-closing doors separate the common dining areas from food storage or food preparation areas;
(ii) condiments, equipment and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(iii) dining areas including tables, countertops and similar surfaces are effectively cleaned before the next meal service.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

Rules 33 through 35 reserved

Rule 37 reserved

37.110.238 LICENSES

(1) No person shall operate a food service establishment who does not have a valid license issued by the department. Only a person who complies with the requirements of this subchapter shall be entitled to receive or retain such a license. Licenses are not transferable. A valid license must be posted in every food service establishment.

(2) Any person desiring to operate a food service establishment shall make written application for a license on forms provided by the department. Such application must include the name and address of each applicant, the location and type of the proposed food service establishment.

(3) Prior to approval of an application for a license, the regulatory authority or the local health department sanitarians shall inspect the proposed food service establishment to determine compliance with the requirements of this subchapter.

(4) The department will issue a license to the applicant if an inspection by a state or local health officer or sanitarian reveals that the proposed food service establishment complies with all applicable requirements of this subchapter.

(5) The department may, after providing opportunity for hearing, revoke a license for serious or repeated violations of any of the requirements of this subchapter or for interference with the department or other authorized persons in the performance of duty.

(6) Prior to revocation, the department will notify, in writing, the licensee of the specific reason(s) for which the license is to be revoked. The notice will further provide for the licensee the opportunity to request an administrative hearing in front of the department within 10 business days after the receipt of the notice. If no request for hearing is filed within the 10-day period, the revocation of the license becomes final.

(7) The licensee may submit to the department an acceptable plan of correction within 10 business days after receiving the department’s notice of revocation. Such an acceptable plan of correction will be a bar to canceling the license.

(8) A notice provided for in this rule is properly served when it is delivered to the holder of the license, or the person in charge, or when it is sent by registered or certified mail, return
receipt requested, to the last known address of the holder of the license. A copy of the notice will be filed in the records of the department.

(9) The hearing provided for in this rule will be conducted by the department pursuant to Title 2, chapter 4, subchapter 6, MCA of the Montana Administrative Procedure Act regarding contested cases and ARM 37.5.117. The department shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. The department will furnish a written report of the hearing decision to the licensee.

(10) Whenever a revocation of a license has become final, the holder of the revoked license may make written application for a new license.

(11) Obtaining the license referred to in (1) of this rule does not relieve the applicant from satisfying applicable requirements from other federal, state or local agencies. These may include, but are not limited to: (a) building code permits and inspections; (b) fire and life safety inspections; (c) private or public water supply system or sewage treatment systems permits or inspections; or (d) occupational health and safety requirements. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, 50-50-201, 50-50-204, 50-50-205, 50-50-206, 50-50-207, 50-50-208, 50-50-209, 50-50-210, 50-50-211, 50-50-212, 50-50-213, 50-50-214 and 50-50-215, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.239 INSPECTIONS

(1) The local health officer or a sanitarian or sanitarian-in-training employed by or contracted with the local board of health shall perform an inspection of each food service establishment within the jurisdiction of the local board of health at least twice every 12 months unless that schedule is modified by signed agreement with the department. Additional inspections of the food service establishment must be performed as often as necessary for the enforcement of this subchapter.

(2) The local health officer, local health department sanitarian or sanitarian-in-training, or an authorized representative of the department, after proper identification, must be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this subchapter and must be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

(3) Whenever an inspection of a food service establishment is made, the findings must be recorded on an inspection form authorized by the department. The inspection report form must summarize the requirements of this subchapter. Inspection remarks must be written to reference the item violated and must state the correction to be made. A copy of the completed inspection report form must be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that must be made available for public review or distribution upon payment of copying costs to any person upon request.
(4) The completed inspection report form must specify a reasonable period of time for the correction of the violations found and correction of the violations must be accomplished within the period specified, in accordance with the following provisions:

(a) All critical item violations must be corrected as soon as possible, but in any event, within 10 days following inspection. Critical items include the following:

(i) ARM 37.110.203(61); 37.110.204(1); 37.110.206(2), (4) and (7); 37.110.207(4), (5), (7), (8), (9), and (11); 37.110.208(1), (3), (6), (7) and (8)(d); 37.110.210(1), (4), (6) and (7)(e); 37.110.212(10) and (11); 37.110.213(9)(a); 37.110.215(1), (2), (3), (13)(d), (14), (15), (23), (24), (25), and (28); 37.110.217(1), (3) and (6); 37.110.218(1); 37.110.219(1), (2), (3) and (6); 37.110.221(3);37.110.223(1),(4)and(5); 37.110.231(1), (2), (3), (5), (6), (7), (8) and (9); 37.110.232(10); 37.110.236(3), (8), (10)(a)(11);37.110.240(4); 37.10.242(1); 37.110.252(1) and (2); 7.110.253(5);37.110.254;37.110.255;37.110.256(3) and (4); and 37.110.257(3)(c) and (d);

(b) All other violations which are the remaining food establishment rules not mentioned in (4)(a) and (4)(a)(ii) must be corrected as soon as possible, but in any event, by the time of the next routine inspection;

(c) In the case of temporary food service establishments, all violations must be corrected within 24 hours.

(5) The inspection report must state that failure to comply with any time limits for corrections of critical item violations may result in cessation of food service operations.

(6) In the case of critical items, the local health officer, sanitarian, or sanitarian-in-training must conduct a follow-up inspection to check for correction compliance and record the results on an inspection form authorized by the department.


37.110.240 EXAMINATION AND CONDEMNATION OF FOOD

(1) The owner or person in charge shall allow the regulatory authority to examine and sample food within the establishment at all reasonable times as is necessary for the enforcement of this subchapter and 50-31-509 and 50-31-510, MCA.

(2) If the regulatory authority finds or has probable cause to believe that food it has examined or sampled is adulterated or misbranded, it shall detain or embargo the food by affixing a tag to it which prohibits its removal or use until permission is given by the regulatory authority or a court.

(3) If the regulatory authority finds that the food is not adulterated or misbranded, it shall authorize its release; however, if it finds that it is adulterated or misbranded, it shall petition a justice court, city court, or district court for an order condemning the food and authorizing its destruction.
(4) If the regulatory authority finds that a perishable food is unsound or contains any filthy, decomposed, or putrid substance or that may be poisonous or deleterious to health or otherwise unsafe, the regulatory authority shall immediately condemn or destroy the article or in any other manner render the article unsalable as human food.

(History: Sec. 50-50-103, 50-50-303, MCA; IMP, Sec. 50-50-103, 50-31-509, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.241 REVIEW OF PLANS

(1) Whenever a food service establishment is constructed or remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or conversion must be submitted to the regulatory authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications must indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this subchapter. A food service establishment may not be constructed or remodeled, and any existing building may not be converted into a food service establishment, except in accordance with plans and specifications approved by the regulatory authority.

(2) An existing building may not be used as a food service establishment and the use of one type of establishment may not change to another type of establishment without the prior approval of the regulatory authority.

(3) When a proposal to use an existing building as an establishment or to change the use from one type of establishment to another involves structural modification, plans meeting the requirements of (1) of this rule must be submitted to the regulatory authority for review and approval. If no structural modification is involved, the regulatory authority may waive the requirement for submission of plans if an inspection by the regulatory authority indicates that the proposed establishment meets the requirements of this subchapter.

(4) Persons operating food establishments are reminded that the plans and specifications must also be approved by the local or state building official having jurisdiction.

(5) Whenever plans and specifications are required by (1) of this rule to be submitted to the department, the regulatory authority shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this subchapter.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.242 SUSPECTED DISEASE TRANSMISSION: PROCEDURE

(1) When the regulatory authority has reasonable cause to suspect possible disease transmission by a food employee of a food service establishment, it may secure a morbidity
history of the suspected food employee or make any other investigation as indicated and shall take appropriate action in accordance with ARM

16.28.301. The department may require any or all of the following measures:

(a) the immediate exclusion of the food employee from employment in food service establishments;

(b) restriction of the food employee’s services to some area of the establishment where there would be no danger of transmitting disease;

(c) adequate medical and laboratory examination of the food employee and of other authorized persons and of his and their body discharges.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, 50-50-105, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.243 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES

(1) To qualify for reimbursement under 50-50-305, MCA, a local board of health must either enter into a written, signed cooperative agreement with the department that establishes the duties and responsibilities of the local board of health and the department consistent with this subchapter, or indicate in writing to the department that each food establishment within the jurisdiction of the local board will be inspected at least twice every 12 months as specified in ARM 37.110.239(1).

(2) Requests for cooperative agreements must contain the current risk analysis information required by the department.

(3) All local boards of health must meet the following criteria regardless of the existence or absence of a cooperative agreement:

(a) At least one sanitarian working with or for the local board of health must receive training from the department in standardized food service inspection techniques. The department is responsible for making training and standardization review available on a periodic basis;

(b) The local board of health must ensure that the following are done by the local health officer, sanitarian, or sanitarian-in-training:

(i) If a preliminary inspection is required under ARM 37.110.241, the food service establishment is inspected for compliance with this subchapter within 10 days after receiving notice from the department or the establishment that such a preliminary inspection is needed;

(ii) Each food service establishment within the jurisdiction of the local board of health is inspected at least twice every 12 months, or on the schedule specified in a signed agreement with the department;
(iii) All the requirements of ARM 37.110.239 are complied with;

(iv) Quarterly inspection reports are submitted to the department within 10 days following the close of each quarter of the fiscal year (1st quarter-September 30; 2nd quarter-December 31; 3rd quarter-March 31; 4th quarter-June 30) on forms approved by the department;

(v) All documentation of enforcement of this subchapter, including but not limited to inspection reports, consumer complaints, illness investigations, plans of correction, and enforcement actions, is retained for 5 years and copies of the documentation are submitted or otherwise made available to the department upon request.

(4) A failure by the local board of health to meet all of its responsibilities under the cooperative agreement or under (3)(a) and (b) above may result in the withholding of funds from the local board reimbursement fund in an amount to be determined by the department.

(History: Sec. 50-50-305, MCA; IMP, Sec. 50-50-305, MCA; NEW, 1994 MAR p. 2941, Eff. 11/11/94; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

Rules 44 through 50 reserved

37.110.251 SEPARABILITY

(1) If any provision of this subchapter is held invalid, all other valid provisions remain in effect.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.252 HIGHLY SUSCEPTIBLE POPULATION

(1) In a food service establishment whose primary function is to serve a highly susceptible population as defined in ARM 37.108.203, the following food items may not be served:

(a) unpasteurized juice and dairy products;

(b) raw animal food such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

(c) partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and

(d) raw seed sprouts in a ready-to-eat form.

(2) Pasteurized shell eggs or pasteurized liquid, frozen or dry eggs or egg products must be substituted for raw shell eggs in the preparation of:

(a) foods such as caesar salads, hollandaise or bearnaise sauces, mayonnaise, egg nogs, ice creams, and egg-fortified beverages; and

(b) recipes in which more than one raw shell egg is broken and the eggs are combined.
(3) Subsection (2) of this rule does not apply if:

(a) the raw eggs are combined immediately before cooking for one consumer’s serving at a single meal; are cooked as specified in ARM 37.110.207(4)(a); and are served immediately, as in the case of an omelet, souffle or scrambled eggs; or

(b) the raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as cake, muffins or bread.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.253 VARIANCES

(1) A food service establishment may request a variance to waive or modify requirements of this subchapter by petitioning the local health authority.

(2) The local health authority may grant a variance by modifying or waiving the requirements of this chapter if in the opinion of the local health authority a health hazard will not result from the variance.

(3) If a variance is granted, the local health authority may require any of the following information for its records on the food establishment:

(a) a statement by the petitioner of the proposed variance from this subchapter’s requirements, citing the relevant rule numbers;

(b) a rationale by the petitioner explaining how the potential public health hazards addressed by the relevant rules will be alternatively addressed by the proposal; and

(c) a hazard analysis and critical control point plan (HACCP) from the petitioner requesting the variance that includes the information required for a HACCP plan and its relevance to the variance requested.

(4) The petitioner may ask for approval from the department if the local health authority denies the variance, or the local health authority does not exist or is absent. For department approval, the petitioner shall submit the information required in (3)(a) through (c) of this rule.

(5) The recipient of a variance must demonstrate to the regulatory authority conformance with approved procedures through compliance with the HACCP plan, if one is required, or procedures that are submitted and approved as a basis for the variance.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.254 SUBMISSION OF A HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) PLAN

(1) A HACCP plan must be submitted to the regulatory authority for the following processes:
(a) smoking or curing food;

(b) using food additives as a method of food preservation rather than as a method of flavor enhancement; or

(c) packaging food using a reduced-oxygen packaging unless the regulatory authority finds that a barrier to Clostridium botulinum exists.

(2) For reduced-oxygen packaging that contains no barrier to Clostridium botulinum, the food service establishment shall follow an approved HACCP plan that contains the information specified under ARM 37.110.255 and that does the following:

(a) identifies the food to be packaged;

(b) limits the food packaged to a food that does not support the growth of Clostridium botulism because it complies with one of the following:

(i) has an aw of 0.91 or less;

(ii) has a pH of 4.6 or less;

(iii) is a meat product cured at a food processing plant regulated by the U.S. department of agriculture using a combination of nitrates, nitrites, and salt that at the time of processing consists of 120 mg/L or higher concentration of sodium nitrite and a brine concentration of at least 3.50% and is received in an intact package; or

(iv) is a food with a high level of competing organisms such as raw meat or raw poultry;

(c) specifies methods for maintaining food at 41°F (5°C) or below;

(d) describes how the packages must be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to maintain the food at 41°F (5°C) or below and to discard the food within 14 calendar days of its packaging if it is not served for on-premises consumption;

(e) limits the shelf life to no more than 14 calendar days from packaging to consumption or to the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(f) includes operational procedures that do the following:

(i) prohibits contacting food with bare hands;

(ii) identifies a designated preparation area;

(iii) identifies a method of minimizing cross-contamination of raw foods with ready-to-eat foods;

(iv) restricts access to processing equipment to only trained food employees familiar with the potential hazards of the operation; and

(v) delineates cleaning and sanitization procedures for food-contact surfaces;
(g) describes the training program that ensures that the individual responsible for the reduced-oxygen packaging operation understands the following:

(i) concepts required for a safe operation;

(ii) equipment and facilities; and

(iii) procedures specified in (2)(f) of this rule and 37.110.255(1)(d).

(h) except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced-oxygen packaging method.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.255 CONTENTS OF A HACCP PLAN

(1) A food establishment that is required to submit a HACCP plan must develop, within 30 days of receiving notice of the requirement, a HACCP plan that contains the following information:

(a) a categorization of the types of potentially hazardous foods that are specified in the menu, such as soups and sauces, salads, and solid foods in bulk, such as meat roasts, or of other foods that are specified by the regulatory authority;

(b) a flow diagram by specific food or category identifying critical control points and providing information on the following:

(i) ingredients, materials, and equipment used in the preparation of that food; and

(ii) formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

(c) food employee and supervisory training plan that addresses the food safety issues of concern;

(d) a statement of standard operating procedures for the plan under consideration, including clearly identifying the following:

(i) each critical control point;

(ii) the critical limits for each critical control point;

(iii) the method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

(iv) the method and frequency for the person in charge to verify routinely that the food employee is following standard operating procedures and monitoring critical control points;
(v) action to be taken by the person in charge if the critical limits for each critical control point are not met; and (vi) records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(e) additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.256 MOBILE FOOD SERVICE

(1) Mobile food services must comply with all requirements of this subchapter unless otherwise specified in this rule.

(2) Mobile food services must provide only single-service articles for use by the consumer.

(3) Mobile food services requiring a water system must have a potable water system under pressure and must be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand washing, in accordance with ARM 37.110.217. Additionally:

(a) The water inlet must be located so that it will not be contaminated by waste discharge, road dust, oil, or grease; be kept capped unless being filled; and be provided with a transition connection of a size or type that will prevent its use for any other service;

(b) All water distribution pipes or tubing must be constructed and installed in accordance with ARM 37.110.219.

(4) If liquid waste results from the operation of a mobile food service, the waste must be stored in a retention tank that is of at least 15% larger capacity than the water supply tank. Additionally:

(a) Liquid waste may not be discharged from the retention tank when the mobile food service is in motion;

(b) All connections on the vehicle for servicing mobile food service waste disposal facilities must be of a different size or type than those used for supplying potable water to the unit;

(c) The waste connection must be located lower than the water inlet connection to preclude contamination of the potable water system;

(d) The liquid waste retention tank, where used, must be thoroughly flushed and drained during the servicing operation;

(e) All liquid waste must be discharged to a sanitary sewage disposal system in accordance with ARM Title 17, chapter 38, subchapter 1.

(5) A mobile food service must report as needed to a servicing area for supplies, cleaning and maintenance, unless otherwise allowed by the local health authority.
(6) A mobile food service may have an approved water hauler and a licensed septic pumper service the unit. The approved water hauler and licensed septic pumper must be in compliance with ARM Title 17, chapter 38, the rules of the Montana department of environmental quality.

(7) A mobile food service need not comply with the requirements in ARM 37.110.215 regarding cleaning and sanitizing equipment and utensils, if the mobile food service reports daily to an approved servicing area, and serves:

(a) only food from approved sources, packaged in individual servings, and transported and stored under conditions meeting the requirements of this subchapter; or

(b) beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment.

(8) The local health authority may:

(a) impose additional requirements to protect against health hazards related to the conduct of the mobile food service;

(b) prohibit the sale of some or all potentially hazardous food; or

(c) when no health hazard will result, waive or modify requirements of this subchapter.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.257 PUSHCARTS

(1) Pushcarts must operate in accordance with ARM 37.110.256.

(2) Additionally, pushcarts must have a servicing area which must include at least an overhead protection for any supplying, cleaning, or servicing operation. Within the servicing area, there must be a location provided for the flushing and drainage of liquid wastes separate from the location provided for potable water servicing and for the loading and unloading of food and related supplies. A servicing area is not required when only packaged food is placed on the pushcart.

(3) The servicing area must be constructed and equipped as follows:

(a) The floor surface of the servicing area must be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and must be maintained in good repair, kept clean, and be graded to drain;

(b) The construction of the walls and ceilings of the servicing area is exempted from the requirements of ARM 37.110.226;

(c) Potable water servicing equipment must be installed according to ARM 37.110.217 and 37.110.219 and must be stored and handled in a way that protects the water and equipment from contamination;
(d) The liquid waste retention tank, where used, must be thoroughly flushed and drained during the servicing operation, and all liquid waste must be discharged to a sanitary sewerage disposal system in accordance with ARM Title 17, chapter 38, subchapter 1. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.258 SEMIPERMANENT FOOD SERVICE ESTABLISHMENT

(1) Semipermanent food service establishments must comply with this subchapter and ARM 37.110.256(1) through (8).

(2) Additionally, semipermanent food service establishments must be located within 200 feet of a restroom facility for food employees. The restroom facility must be accessible during all hours of operation. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.259 PERISHABLE FOOD VENDING MACHINES

(1) Perishable food vending machines must comply with all requirements of this subchapter.

(2) Additionally, all foods, beverages and ingredients offered for sale through perishable food vending machines must be manufactured, processed and prepared in a fixed food service establishment that complies with this subchapter or subchapter 3 regarding food manufacturing establishments. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR p. 3201, Eff. 11/23/00.)

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(h) Paid feeding assistants-State-approved training course.

Definition: A paid feeding assistant means an individual employed by, or under contract to, a nursing facility to feed or assist with the feeding of nursing facility residents.

1. Curriculum. Any facility that wishes to use paid feeding assistants must provide the State Survey and Certification Bureau with a copy of their complete curriculum, teacher guide, student workbooks and training materials and training schedule for review. Following the review, the Bureau will notify the facility of its findings by letter. Any recommendations for additions and/or changes to the submitted materials will be contained in this letter. If any additions or changes are required, the facility must submit documentation of how these additions and/or changes will be incorporated into their program. The facility must notify the Bureau of the date of planned implementation prior to final approval. Final approval will by letter from this Bureau. Any substantial changes to a program after it has been approved must be submitted to the Bureau for review and re-approval.
2. Instructors. The primary instructor(s) of the course must be a licensed health care professional with experience in nutrition and feeding of nursing facility residents. Licensed health care professionals could include licensed nurses, dietitian, and speech and occupational therapists. Supplemental instructors may be utilized to instruct trainees in those portions of the curriculum for which they have expertise (e.g., Heimlich maneuver, resident rights).

Note: Certified nurse aides and feeding assistants may not be used as instructors.

(i) Successful completion of a State-approved training course means that the trainee has successfully passed the training course. The instructor must verify in writing the successful completion of the course, including a competency evaluation (test). Testing materials must be included in the training materials submitted to the Bureau for approval. Verification of competency must be filed in the trainee's personnel or training file. The State Agency has developed a skills checklist that may be utilized to verify competency.

(ii) State law does not address the use of feeding assistants in nursing homes. Federal requirements are being adopted by the Department to promote quality of care to residents of nursing homes, by allowing nursing homes to utilize paid feeding assistants to enhance their dining programs.

(2) Supervision.

(i) A feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN). Supervision means the general supervision of the feeding assistant by licensed nurses who are working on the premises of the facility during the times the feeding assistant(s) is performing feeding tasks.

(ii) In an emergency, a feeding assistant must call a supervisory nurse for help on the resident call system. When feeding residents in their rooms, the feeding assistant must call a supervisory nurse on the call system when any problems occur. The facility must have a system in place to notify a supervisory nurse when feeding assistants are feeding residents in areas of the facility (e.g., dining rooms/areas) that have no resident call system.

(3) Resident selection criteria.

(i) A facility must ensure that a feeding assistant feeds only residents who have no complicated feeding problems.

(ii) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(iii) The facility must base resident selection on the charge nurse's assessment and plan of care.

(a) Minimum training course contents. A State-approved training course for paid feeding assistants must include no less than 8 hours of training, 6 hours of which must be in classroom instruction and 2 hours in clinical demonstrations. Course content must include:
(1) Feeding techniques and assistance with feeding and hydration. Content meet these areas of instruction should include:

- Proper nutrition (basic food groups, general and therapeutic diets, mechanically altered diets).
- Food likes and dislikes; obtaining substitutions.
- Adaptive feeding equipment (sippy/nosey cups, lidded mugs, weighted utensils, scoop plates, plate guards, non-slip pads, braces/splints, etc.)
- Consistency of foods and fluids, alternating solids and liquids, bite size and rate of feeding.
- Proper positioning of resident and feeding assistant at meals.
- Resident and tray preparations.
- Encouraging independence.
- Assisting residents who need supervision and cueing.
- Assisting residents with partial physical assistance.
- Feeding the totally dependent resident.
- Assisting the blind.

(2) Communication and interpersonal skills to include:

- Verbal and non-verbal communication.
- Focusing conversations toward residents.
- Individualizing communication with each resident.
- Reporting refusals to eat
- Reporting amounts of food and fluids consumed (% of meals eaten: measurement of liquids).

(3) Appropriate responses to resident behavior.

- Factors relating to inappropriate behavior; i.e. (confusion, depression, anxiety, disruption, disorientation, wandering)
- Techniques to gain residents’ cooperation.

(4) Safety and emergency procedures.

- Heimlich maneuver
-Safe food temperatures

(5) Infection Control.
-Hand washing techniques
- Proper use of gloves
- Proper handling of food, utensils, and dishware.

(7) Resident Rights. Instruction in residents rights must include:
-the rights specified in CFR 483.10 of the Long Term Care requirements, and
-the rights specified in the Montana Codes Annotated, Sections 50-5-1101 through 50-5-1106.

(8) Recognizing changes in residents that are consistent with their normal behavior and the importance of reporting these changes to the supervisory nurse.
- Identifying change in eating patterns.
- Reporting observations while feeding residents. (i.e., pocketing food, poor fitting dentures/edentulous, vomiting, choking while eating, acute illness).

(9) Maintenance of records. A facility must maintain a record of all individuals used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants. The record must be kept on file in either the trainee’s personnel or training file.

NEBRASKA

Downloaded January 2011

12-006.04B Training: The facility must provide initial and ongoing training designed to meet the needs of the resident population. Training must be provided by a person qualified by education, experience, and knowledge in the area of the service being provided. The training must include the following:

...12-006.04B2 Ongoing Training: The facility must ensure each employee receives ongoing training to ensure continued compliance with regulations and facility policy. The record of such training must include a notation of type of training, name of employee(s), date of training, and name of person providing the training.

...12-006.04B2c Director of Food Service: When the director of food service is not a qualified dietitian, the director must have at least 15 hours of continuing education related
to dietetics each year, 5 hours of which relate to sanitation. Evidence of credentials and of continuing education must be available within the facility.

12-006.04C7 Other Nursing Personnel

12-006.04C7b Paid Dining Assistants: When the facility utilizes persons other than a licensed registered or practical nurse or a nursing assistant for the feeding of residents, the facility must follow 172 NAC 105. Each facility must establish and implement policies and procedures:

1. To ensure that paid dining assistants providing assistance with feeding to residents in the facility meet the qualification, training and competency requirements specified in 172 NAC 105;

2. To ensure that competency assessments and/or courses for paid dining assistants have been completed in accordance with the provisions of 172 NAC 105;

3. That specify how the facility will meet the role requirements at 172 NAC 105-004, which state that paid dining assistants must:
   a. Only feed residents who have no complicated feeding problems as selected by the facility based on the resident’s latest assessment, plan of care, and determinations by the charge nurse that the resident’s condition at the time of such feeding meets that plan of care and that the paid dining assistant is competent to feed that particular resident;
   b. Work under the supervision of a licensed registered or practical nurse who is on duty, physically present in the facility, and immediately available; and
   c. Call a supervisor for help in an emergency;

4. That specify how the facility will meet the requirements at 172 NAC 105-007, which state that the facility must maintain:
   a. A listing of all paid dining assistants employed at the facility and the number of hours worked;
   b. For each individual paid dining assistant:
      (1) Verification of successful completion of an approved paid dining assistant training course and competency evaluation, and
      (2) Verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register of child protection cases maintained by the Department of Health and Human Services if applicable; and

5. That address how supervision of paid dining assistants will occur and how paid dining assistants will be identified as single-task workers.
12-006.04D Dietary Services Staffing: The facility must employ sufficient personnel competent to carry out the functions of the dietary services in a safe and timely manner.

12-006.04D1 Qualified Dietitian: The facility must employ a qualified dietitian on a full-time, part-time, or consultant basis.

12-006.04D1a The qualified dietitian is responsible for the general guidance and direction of dietary services, assessing special nutritional needs, developing therapeutic diets, regular diets, developing and implementing in service education programs, participating in interdisciplinary care planning when necessary, supervising institutional food preparation, service and storage.

12-006.04D2 Food Service Director: The facility must designate a person to serve as the director of food service who receives scheduled consultation from a registered dietitian or licensed medical nutrition therapist if a qualified dietitian is not employed full-time.

12-006.04D2a To qualify as director of food service the employee must be one of the following:

1. A graduate of a dietetic technician program approved by the American Dietetic Association;

2. An individual with a bachelor's degree in foods and nutrition;

3. A graduate of a dietetic assistant program approved by the American Dietetic Association, qualifying for certification by the Dietary Managers Association;

4. A graduate of a dietary manager program approved by the Dietary Managers Association and qualifying for certification by the Dietary Managers Association; or

5. An individual who successfully completes a course in food service management offered by an accredited university, community college, or technical college, whose curriculum meets at least the minimum requirements of any of the programs described in 175 NAC 12-006.04D2a, items 1-3, whether or not formally approved by the entities named in those sections.

12-006.04D3 The dietitian or director of food service is responsible for ensuring residents are provided with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. The director of food service or his/her designee must participate in the interdisciplinary care plan.

12-006.09D8 Nutrition: The facility must identify and implement standards of care and treatment to maintain nutritional status of each resident. This includes:

12-006.09D8a Food Service: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food
service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.09D8c Assistive Devices: The facility must provide special eating equipment and utensils for residents who need them.

12-006.11 Dietary Services: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.11A Menus and Nutritional Adequacy:

The facility's menus must:

12-006.11A1 Be developed and implemented to meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, with provision for ensuring adequate intake of calories and fluids;

12-006.11A2 Be designed to be compatible with the food preferences of the majority of the residents of the facility, with the physicians' orders, and with the physical needs of each resident;

12-006.11A3 Offer substitutes of similar nutritive value to residents who refuse food; and

12-006.11A4 Include therapeutic diets when prescribed by the medical practitioner.

12-006.11B Frequency of Meals: The facility must provide at least three meals daily, at regular times comparable to normal mealtimes in the community.

12-006.11B1 The facility must ensure that no more than 14 hours elapse between a substantial evening meal and breakfast the following day. Sixteen hours may elapse if a nourishing snack is offered at bedtime daily.

12-006.11C Food Supply: The facility must maintain supplies of staple foods for a minimum of a seven day period and perishable foods for a three day period on the premises. Food must be procured from sources approved or considered satisfactory by federal, state, or local authorities.

12-006.11D Food Preparation: The facility must ensure foods are prepared by methods that conserve the food's nutritive value, flavor, and appearance. Foods must be attractively served at the proper temperatures. Recipe resources must be available.

12-006.11E Sanitary Conditions: The facility must comply with the provisions of the Food Code.
12-007.01A Dietary: If food preparation is provided on site, the facility must dedicate space and equipment for the preparation of meals. Food service physical environment and equipment must comply with the Food Code, except when used only for training or activity purposes.

**NEVADA**

NAC 449.74525 Dietary services. (NRS 449.037)

1. A facility for skilled nursing shall employ full time, part time or as a consultant, a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association. If a registered dietitian is not employed full time, the facility shall designate a person to serve as the director of food service who receives frequently scheduled consultations from a registered dietitian.

2. A facility shall employ an adequate number of qualified and competent personnel to provide food service to the patients in the facility.

3. Menus must be planned in advance and followed to meet the nutritional needs of the patients in the facility in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

4. A facility shall provide to each patient in the facility:
   (a) Food that is prepared to conserve the nutritional value and flavor of the food.
   (b) Food that is nourishing, palatable, attractive and served at the proper temperature.
   (c) A well-balanced diet that meets the daily nutritional and special dietary needs of the patient.
   (d) Who refuses the food that is regularly served by the facility, a substitute of similar nutritional value.

5. A therapeutic diet served to a patient by a facility must be prescribed by the attending physician of the patient.

6. A facility shall serve to each patient in the facility at least three meals daily, at such times as are comparable to regular mealtimes within the community in which the facility is located. A snack must be offered to each patient daily at bedtime. Except as otherwise provided in this subsection, breakfast must be served not more than 14 hours after the previous evening meal. If a nourishing snack is served at bedtime, breakfast may be served
not more than 16 hours after the previous evening meal if approved by a group of patients organized pursuant to NAC 449.74499.

7. A facility shall provide special eating equipment and utensils to each patient who requires them.

8. A facility shall:

(a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto and obtain such permits as are necessary from the Bureau of Health Protection Services of the Health Division for the preparation and service of food;

(b) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection;

(c) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (b) for at least 1 year after the date of the corrective action;

(d) Procure food from sources that are approved or considered satisfactory by federal, state and local authorities;

(e) Store, prepare and serve food under sanitary conditions; and

(f) Dispose of refuse and garbage properly.

(Added to NAC by Bd. of Health by R051-99, eff. 9-27-99; A by R067-04, 8-4-2004)

NEW HAMPSHIRE

Downloaded January 2011

He-P 803.20 Food Services.

(a) The licensee shall provide food services that:

(1) Meet the U.S. Department of Agriculture recommended dietary allowance as specified in the "2005 Dietary Guidelines for Americans";

(2) Provide the nutritional needs of each resident;

(3) Meet the special dietary needs associated with health or medical conditions for each resident as identified by the health examination required by He-P 803.15(h);

(4) Include provision of a food service manager who shall;

a. Be responsible for the day to day operation of the kitchen; and
b. Have knowledge of the nutritional requirements for residents and of the planning and preparation of prescribed diets;

(5) Include facilities and equipment for meal delivery and assisted feeding, as applicable; and

(6) Include dining facilities that have eating areas sufficient in size to provide seating for at least 50% of the licensed capacity.

(b) Each resident shall be offered at least 3 meals in each 24-hour period when the resident is in the licensed premises unless contraindicated by the resident’s care plan.

(c) Snacks shall be available between meals and at bedtime if not contraindicated by the resident’s care plan.

(d) If a resident refuses the item(s) on the menu, a substitute shall be offered.

(e) Menus, including beverages for regular and therapeutic diets, shall be planned and written for at least 2 weeks in advance of serving.

(f) Each day's menu shall be posted in a place accessible to food service personnel and residents.

(g) A listing of the diet orders and allowed foods for each resident shall be available to personnel.

(h) A dated record of menus as served shall be maintained for at least 3 months.

(i) The licensee shall provide therapeutic diets to residents only as directed by a licensed practitioner or other professional with prescriptive authority.

(j) Residents requiring therapeutic diets shall have an assessment of nutritional status by a qualified dietitian or dietary technician at least quarterly.

(k) If a resident has a pattern of refusing to follow a prescribed diet, personnel shall document the reason for the refusal in the resident’s medical record and notify the resident’s licensed practitioner.

(l) For the purposes of emergency preparedness, each licensee shall have the following supplies of foods maintained on the premises for the average daily census:

(1) Enough refrigerated, perishable foods for a 3-day period;

(2) Enough non-perishable foods for a 7-day period; and

(3) Enough drinking water for a 3-day period.

(m) All food and drink provided to the residents shall be:

(1) Safe for human consumption and free of spoilage or other contamination;
(2) Stored, prepared and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;

(3) Served at the proper temperatures;

(4) Labeled, dated and stored at proper temperatures; and

(5) Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.

(n) The use of outdated, unlabeled food or canned goods that have damage to their hermetic seal shall be prohibited and such goods shall be immediately discarded or distinctly segregated from the usable food.

(o) All food not in the original package shall be stored in labeled and dated containers designed for food storage.

(p) All work surfaces shall be cleaned and sanitized after each use.

(q) All dishes, utensils and glassware shall be in good repair, cleaned and sanitized after each use and properly stored.

(r) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.

(s) If soiled linen is transported through food service areas, the linen shall be in an impervious container.

(t) Garbage or trash in the kitchen area shall be placed in lined containers with covers.

(u) All nursing home personnel involved in the preparing and serving of food shall wash their hands and exposed portions of their arms with liquid soap and running water before handling or serving food.

(v) Regularly scheduled training programs including sanitation and safety shall be made available to personnel. Information as to the content and length of this training shall be documented and kept in employee records.

Source.  #9856-A, eff 1-26-11 He-P 803.25 Sanitation.

... (c) A supply of potable water shall be available for human consumption and food preparation.

(d) A supply of hot and cold running water shall be available at all times and precautions such as temperature regulation shall be taken to prevent a scalding injury to the residents.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the AIA “Guidelines for Design and Construction of Health Care Facilities,” Nursing Facilities chapter, 2006 edition, and summarized as follows:
... (2) 120 degrees Fahrenheit for dietary areas, except that provisions shall be made to provide 180 degrees Fahrenheit rinse water at the warewasher, which may be by separate booster, unless a chemical rinse is provided; and

... (g) Cleaning solutions, compounds and substances considered hazardous or toxic materials, as defined in RSA 147-A:2, VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place separate from food, medications and program supplies.

(h) Toxic materials shall not be used in a way that contaminates food, equipment or utensils or in any way other than in full compliance with the manufacturer’s labeling.

(i) Only individuals authorized under RSA 430:33 may apply pesticides, as defined by RSA 430:29, XXVI, for rodent or cockroach control in food storage, food preparation or dining areas.

(j) Solid waste, garbage and trash shall be stored in a manner to make it inaccessible to insects, rodents, outdoor animals and nursing home pets.

(k) In-house trash and garbage receptacles shall be emptied in a timely manner and lined, or cleaned and disinfected after emptying.

(l) Trash receptacles in food service area shall be covered at all times.

... (o) Cleaning supplies shall be stored in dust-free and moisture-free storage areas.

(p) Any nursing home that has its own water supply and whose water has been tested and has failed to meet the acceptable levels identified in this section, or as required by the department of environmental services, shall notify the department upon receipt of notice of a failed water test.

Source. #9856-A, eff 1-26-11
(b) Menus shall be planned and scheduled by the food service director or the dietitian, and shall be approved by the dietitian at least 14 days in advance.

(c) The dietitian shall perform the dietary assessment and reassessment, which shall include examination of and communication with the resident if the resident's condition permits.

(d) Services that are provided by a food service company shall be covered by a written contract.

8:39-17.2 Mandatory policies and procedures for dietary services

(a) The facility shall make available a current dietary manual, which shall have been approved by the dietitian and the medical director. The facility shall serve diets that are consistent with the dietary manual.

(b) The facility shall post current menus with portion sizes in the food preparation area. The facility shall keep menus for 30 days with any changes accurately recorded.

(c) The facility shall designate responsibility for observation and documentation of meals refused or missed by a resident and of any resident who requires assistance with meals.

(d) A dietitian shall adhere to an established system of nutritional assessment, which shall include examination of and communication with the resident if the resident's condition permits.

(e) The facility shall routinely provide nondisposable dishes and cutlery at all meals except for special meal activities or individual resident needs.

(f) Meals shall be scheduled in such a way that no more than 14 hours elapse between a substantial evening meal and breakfast the next morning. The first meal shall not be served before 7:00 A.M. unless requested by the resident.

1. Up to 16 hours may elapse between a substantial evening meal and breakfast the following day if the following conditions are met:

   i. A resident group agrees to this meal span; and

   ii. A nourishing bedtime snack is served.

(g) All food service facilities shall operate with safe food handling practices in accordance with Chapter XII of the New Jersey Sanitary Code, N.J.A.C. 8:24.

8:39-17.3 Mandatory staffing amounts and availability for dietary services

Page 241 of 332
(a) The dietitian shall spend an average of 15 minutes per resident each month providing dietary services in the facility, which requires one full-time equivalent dietitian for every 693 residents.

(b) Dietary service personnel shall be present for a period of at least 12 hours each day.

(c) For each meal, the facility shall assign staff to help residents who require assistance with eating.

8:39-17.4 Mandatory resident dietary services

(a) Each resident shall receive a diet which:

1. Corresponds to the physician’s or advanced practice nurse’s order, the dietitian’s instructions, and resident’s food preferences;

2. Is served in the proper consistency and at the proper temperature; and

3. Provides nutrients and calories based upon current recommended dietary allowances of the National Academy of Sciences, adjusted for the resident’s age, sex, weight, physical activity, physiological function, and therapeutic needs.

(b) The facility shall provide between-meal and bedtime nourishment, and beverages shall be available at all times for each resident unless contraindicated by a physician, as documented in the resident’s medical record.

(c) The facility shall offer substitute foods and beverages to all residents who refuse the food served at meal times. Such substitutes shall be of equivalent nutritional value and planned in advance in writing.

(d) No resident shall have to wait for assistance in eating for more than 15 minutes following delivery of a tray to the resident.

(e) The facility shall select foods and beverages, which include fresh and seasonal foods, and shall prepare menus with regard to the nutritional and therapeutic needs, cultural backgrounds, food habits, and personal preference of residents.

SUBCHAPTER 18. ADVISORY DIETARY SERVICES

8:39-18.1 Advisory structural organization for dietary services

A registered dietitian performs the resident dietary assessment and participates in the interdisciplinary plan of care.

8:39-18.2 Advisory staff qualifications for dietary services
The director of dietary services or the dietitian is registered by the Commission on Dietetic Registration of the American Dietetic Association (R.D.).

8:39-18.3 Advisory staffing amounts and availability for dietary services

The dietitian spends an average of 20 minutes per resident each month providing dietary services in the facility. (This is an average. It is equal to one full-time equivalent dietitian for every 520 residents.)

8:39-18.4 Advisory resident dietary services

(a) There are dietary observances for national and/or religious holidays.

(b) Fresh fruits and vegetables are served in season on a daily basis.

(c) The facility utilizes a dining room/area, other than day rooms, for residents with special needs.

(d) Residents have access to a refrigerator or snack bar.

(e) Residents are offered a selective menu consisting of at least three main entrees at each meal.

(f) A menu committee composed of residents participates in meal planning.

(g) The facility sponsors a guest meal program.

8:39-18.5 Supplies and equipment

The facility provides cloth table covers and cloth napkins at least once a day.

8:39-19.7 Mandatory space and environment for sanitation and waste management

... (d) All food service facilities shall be maintained in conformance with Chapter XII of the New Jersey State Sanitary Code, N.J.A.C. 8:24.

8:39-46.5 Advisory nutrition [Alzheimer's/dementia program]

(a) The Alzheimer's/dementia program provides nutritional intervention as needed, based upon assessment of the eating behaviors and abilities of each resident. Interventions may include, but are not limited to, the following:

1. Verbal and non-verbal eating cues;

2. Modified cups, spoons, or other assistive devices; and

3. Simplified choices of foods or utensils.
b) The Alzheimer's/dementia program provides a small dining room, separate room, or designated dining area furnished to meet the needs of the residents, with staff members or trained volunteers to assist.

NEW MEXICO

7.9.2.33 OTHER RECORDS: The facility shall retain:

A. DIETARY RECORDS: All menus and therapeutic diets for one year.

...7.9.2.42 INDIVIDUAL CARE:

...(2) Adaptive devices: Adaptive self-help devices shall be available to residents assessed as capable of using such devices and these residents shall be trained in their use to contribute to independence in eating.

(3) Assistance: Residents who require assistance with food or fluid intake shall be helped as necessary.

7.9.2.52 DIETARY SERVICE:

The facility shall provide a dietary service or contract for a dietary service which meets the requirements of this section.

A. STAFF:

(1) Full or part-time supervisor: The dietary service shall be supervised by a full-time supervisor, except that an intermediate care facility with fewer than fifty (50) residents may employ a person to work as supervisor or part-time.

(2) Qualifications: The dietary service supervisor shall be either:

(a) A dietitian; or

(b) Shall receive necessary consultation from a dietitian and shall have completed a course of study of not less than ninety (90) hours credit in food service supervision at a vocational, technical, or adult education school or equivalent, or presently be enrolled in such a course of study; or hold an associate degree as a dietetic technician.
(3) Staff: There shall be dietary service personnel on duty at least twelve (12) hours daily who may include the supervisor.

B. HYGIENE OF STAFF:

Dietary staff and other personnel who participate in dietary service shall be in good health and practice hygienic food handling techniques.

C. MENUS:

(1) Menus shall be planned and written at least two (2) weeks in advance of their use, and shall be adjusted for seasonal availability of foods.

(2) Menus shall be planned, to the extent medically possible, in accordance with the "Recommended Daily Dietary Allowances", of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

(3) Food sufficient to meet the needs of each resident shall be planned, prepared and served for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value. Record of menus as served, including substitutions shall be retained for one (1) year.

(4) The facility shall make reasonable adjustments to accommodate each resident's preferences, habits, customs, appetite, and physical condition.

(5) A file of tested recipes shall be maintained.

(6) A variety of protein food, fruits, vegetables, dairy products, breads, and cereals shall be provided.

D. THERAPEUTIC DIETS:

(1) Therapeutic diets shall be served only on order of the physician, and shall be consistent with such orders.

(2) Therapeutic menus shall be planned with supervision and/or consultation from a qualified dietitian.

(3) Vitamin and mineral supplements shall be given only on order of the physician.

E. MEAL SERVICE:

All diets shall be prescribed by the attending physician.

(1) Schedule: At least three (3) meals or their equivalent shall be offered to each resident daily, not more than six (6) hours apart, with not more than a fourteen (14) hour span between a substantial evening meal and the following breakfast.

(2) Identification to trays: Trays, if used, shall be identified with the resident's name and type diet.
(3) Table service: Table service shall be provided for all residents who can and want to eat at a table.

(4) Re-service: Food served to a resident in an unopened manufacturer's package may not be re-served unless the package remains unopened and maintained at the proper temperature.

(5) Temperature: Food shall be served and maintained at proper temperatures, according to standards established by Environmental Improvement Division.

(6) Snacks: If not prohibited by the resident's diet or condition, nourishments shall be offered routinely to all residents between the evening meal and bedtime.

(7) Drinking water: When a resident is confined to bed, a covered pitcher of drinking water and a glass shall be provided on a beside stand. The water shall be changed frequently during the day, and pitchers and glasses shall be sanitized daily. Single-service disposable pitchers and glasses may be used. Common drinking utensils shall not be used.

(8) Food transportation: Food transported into public areas other than the dining room shall be protected from environmental contamination.

[7-1-60, 7-1-64, 5-2-89; 7.9.2.52 NMAC – Rn, 7 NMAC 9.2.52, 8-31-00]

7.9.2.53 FOOD SUPPLIES AND PREPARATION:

A. SUPPLIES: Food shall be purchased or procured from approved sources or sources meeting federal, state, and local standards or laws.

B. PREPARATION: Food shall be cleaned and prepared by methods that conserve nutritive value, flavor and appearance. Food shall be cut, chopped, or ground as needed for individual residents.

C. MILK: Only pasteurized fluid milk which is certified Grade A shall be used for beverages. Powdered milk may be used for cooking if it meets Grade A standards or is heated to a temperature of 165 degrees Fahrenheit during cooking.

[7-1-60, 7-1-64, 5-2-89; 7.9.2.53 NMAC – Rn, 7 NMAC 9.2.53, 8-31-00]

7.9.2.54 SANITATION:

A. EQUIPMENT AND UTENSILS:

(1) All equipment, appliances and utensils used in preparation or serving of food shall be maintained in a functional, sanitary, and safe condition. Replacement equipment shall meet criteria established in “Listing of Food Service Equipment” by the national sanitation foundation.

(2) The floors, walls, and ceilings of all rooms in which food or drink is stored or prepared or in which utensils are washed shall be kept clean, smooth, and in good repair.
(3) All furnishings, table linens, drapes, and furniture shall be maintained in a clean and sanitary condition.

(4) Single-service, individually packaged, utensils shall be stored in the original, unopened wrapper until used, may not be made of toxic material and may not be re-used or re-distributed if the original wrapper has been opened.

B. STORAGE AND HANDLING OF FOOD:

(1) Food shall be stored, prepared, distributed, and served under sanitary conditions which prevent contamination.

(2) All readily perishable food and drink, except when being prepared or served, shall be kept in a refrigerator which shall have a temperature maintained at or below forty (40) degrees Fahrenheit.

C. ANIMALS:

Animals shall not be allowed where food is prepared, served or stored, or where utensils are washed or stored except in eating areas when food is not being served.

D. DISHWASHING:

Whether washed by hand or mechanical means, all dishes, plates, cups, glasses, pots, pans, and utensils shall be cleaned in accordance with accepted procedures which shall include separate steps for prewashing, washing, rinsing, and sanitizing by means of hot water or chemicals or a combination approved by the department.

[7-1-60, 7-1-64, 5-2-89; 7.9.2.54 NMAC – Rn, 7 NMAC 9.2.54, 8-31-00]
(i) registration by the Commission on Dietetic Registration of the American Dietetic Association,

(ii) education, training and experience in identification of dietary needs, planning and implementation of dietary program, or

(iii) certification as a certified dietitian or certified nutritionist in accordance with Article 157 of the Education Law.

(b) Sufficient staff. The facility shall employ sufficient professional and support personnel competent to carry out the functions of the dietary service.

(1) The availability of qualified dietitian services shall be related to the number of beds in the nursing homes, the amount and type of dietary supervision required, and the complexity of resident needs and additional full or part-time qualified dietitians shall be utilized commensurate with such factors. Each resident's nutritional care shall be under the direction of a qualified dietitian.

(2) The facility shall utilize one or more dietetic service supervisor(s) with consultation by a qualified dietitian to manage the food service in the absence of the qualified dietitian.

(c) Menus and nutritional adequacy.

(1) Menus shall meet the nutritional needs of residents in accordance with dietary allowances that meet generally recognized standards of care and shall take into account the cultural background and food habits of residents.

(i) The facility shall have an effective means of recording and transmitting to the food service diet orders and changes; and

(ii) The facility shall maintain a current list of residents identified by name, location and diet order and such identification shall accompany each resident's meal when it is served.

(2) Menus shall be prepared in advance in accordance with a diet manual acceptable to the medical, nursing and dietary services and retained for one year from the date of serving; and

(3) Menus shall be followed.

(d) Food. Each resident shall receive and the facility shall provide:

(1) food prepared by methods that conserve nutritive value, flavor and appearances;

(2) food that is palatable, attractive, and at the proper temperature;

(3) food prepared in a form designed to meet individual needs; and

(4) substitutes offered of similar nutritive value to residents who refuse food served.

(e) Therapeutic diets. Therapeutic diets shall be prescribed by the attending physician, when indicated, based on the findings of the comprehensive resident assessment.

(f) Frequency of meals.
(1) Each resident shall receive and the facility shall provide at least three substantial meals daily, at regular times comparable to normal mealtimes in the community.

(2) There shall be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (4) of this subdivision.

(3) The facility shall offer snacks at bedtime daily.

(4) If a nourishing snack as determined by a qualified dietitian in accordance with generally accepted standards of care, is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day provided that a resident group agrees to this meal span and a nourishing snack is served.

(g) Assistive devices. The facility shall provide assistance with eating and special eating equipment and utensils for residents who need them.

(h) Sanitary conditions. The facility shall store, prepare, distribute and serve food under sanitary conditions; and in accordance with the sanitary requirements of Part 14 (Service Food Establishments) of Chapter I (State Sanitary Code) of this Title.

(i) Kosher food. The facility shall provide, as part of the basic services, kosher food or food products prepared in accordance with the Hebrew orthodox religious requirements when the resident, as a matter of religious belief, desires to observe Jewish dietary laws; and shall

(1) establish a plan and procedure for obtaining, preparing and serving kosher foods and food products in accordance with Hebrew Orthodox religious requirements;

(2) incorporate the provision of kosher food and food products prepared in accordance with Hebrew Orthodox religious requirements into the resident’s comprehensive care plan; and

(3) assure that employees who are involved with such plan of care are trained in the procedures that satisfy Hebrew Orthodox dietary requirements.

(k) Feeding Assistant Training Course.

(1) The feeding assistant training program shall consist of a minimum of 15 hours of education and training and must include all of the topics and lessons specified in the state-approved feeding assistant training program curriculum.

(2) The state-approved feeding assistant training program shall include, but not be limited to, training in the following content areas:

(i) Resident rights;

(ii) Infection control;

(iii) Safety and emergency procedures, including Heimlich Maneuver;
Communications and interpersonal skills;

Changes in resident’s condition;

Appropriate response to resident behavior;

Assistance with eating and hydration; and

Feeding techniques.

The facility shall issue a certificate of completion to each individual who successfully completes the state-approved feeding assistant training program. The certificate shall include the full name of the feeding assistant and the facility-issued trainee or employee ID number, signature of feeding assistant, name and address of the facility, date the individual successfully completed the feeding assistant training program, name, title and signature of the training program instructor, and name and signature of the nursing home administrator.

The facility shall retain records of each individual who completes their state-approved feeding assistant program. Such records shall include, but not be limited to:

- the full name of the feeding assistant, facility-issued trainee or employee ID number, name and address of the facility, dates on which each content area of the feeding assistant training program was delivered and successfully completed, the date on which the individual successfully completed the feeding assistant training program, and the name, title and signature of the training program instructor.

NORTH CAROLINA

SECTION .2700 - DIETARY SERVICES

10A NCAC 13D .2701 PROVISION OF NUTRITION AND DIETETIC SERVICES

(a) The facility shall ensure that each patient is provided with a palatable diet that meets his or her daily nutritional and specialized nutritional needs.

(b) The facility shall designate a person to be known as the director of food service who shall be responsible for the facility’s dietetic service and for supervision of dietetic service personnel. If this person is not a dietitian, he or she shall meet the criteria for membership in the Dietary Managers Association which is hereby incorporated by reference including subsequent amendments and editions. Copies of criteria may be obtained from the Dietary Managers Association, 406 Surry Woods Drive, St. Charles, IL 60174 at no cost.
has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by course requirements.

(c) If the food service supervisor is not a dietician, the facility shall employ a dietician on at least a consultant basis. The consultant shall submit written reports to the administrator and food service supervisor.

(d) The dietician shall spend sufficient time in the facility to assure the following parameters of nutrition have been addressed and that recommended successful interventions have been met:

1. An analysis of weight loss or gain;
2. Laboratory values;
3. Clinical indicators of malnutrition;
4. Drug therapy that may contribute to nutritional deficiencies;
5. The amount of meal and supplement consumed to meet nutritional needs;
6. Increased nutritional needs related to disease state or deterioration in physical or mental status, i.e., decubitus, low protein status, inadequate intake, or nutrition provided via enteral or parenteral route.

(e) There shall be sufficient dietetic personnel employed competent to meet the nutritional needs of all patients in the areas of therapeutic diets, food preparation and service, principles of sanitation, and resident's rights as related to food services.

(f) The facility shall ensure that menus are followed which meet the nutritional needs of patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences which are incorporated by reference, including subsequent amendments. Copies of this publication can be obtained by contacting The National Academy Press, 2101 Constitution Avenue N.W., Lockbox 285, Washington, D.C., 20055. Cost of this publication is eighteen dollars and ninety five cents ($18.95) and includes shipping and handling. Menus shall:

1. be planned at least 14 days in advance,
2. provide for substitutes of similar nutritive value for patients who refuse food that is served, and
3. be provided to patients orally or written through such methods as posting, daily announcements, periodic newsletters, etc.

(g) Food must be prepared to conserve its nutritive value and appearance.

(h) Food shall be served at the preferred temperature as discerned by the resident and customary practice, in a form to meet the patient's individual needs and with assistive devices as dictated by the patient's needs. Hot foods shall leave the kitchen (or steam table)
above 140 degrees F; and cold foods below 41 degrees F; and freezer temperatures at 0 degrees F or below.

(i) If patients require assistance in eating, food shall be maintained at the appropriate temperature until assistance is provided.

(j) All diets, including enteral and parenteral nutrition therapy, shall be ordered by the physician or other legally authorized person, and served as ordered.

(k) At least three meals shall be served daily to all patients in accordance with medical orders.

(l) No more than 14 hours shall elapse between an evening meal containing a protein food and a morning meal containing a protein food.

(m) Hour-of-sleep (hs) nourishment shall be available to patients upon request or in accordance with nutritional plans.

(n) Between meals fluids for hydration shall be available and offered to all patients in accordance with medical orders.

(o) The facility shall have a current nutrition care manual or handbook approved by the dietitian, medical staff and the Administrator which shall be used in the planning of the regular and therapeutic diets and be accessible to all staff.

(p) Food services shall comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments as promulgated by the Commission for Health Services which is incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food under sanitary conditions. Copies of these Rules can be obtained, at no charge, by contacting the N.C. Department of Environment and Natural Resources, Division of Environmental Health Services, 1630 Mail Service Center, Raleigh, NC 27699-1630.

History Note: Authority G.S. 131E-104;

33-07-03.2-01. Definitions. The following terms are defined for this chapter, chapter 3307-04.2, and North Dakota Century Code chapter 23-16:

16. "Paid feeding assistant" means an individual who has successfully completed a department-approved paid feeding assistant training course and is paid to feed or provide assistance with feeding residents of a nursing facility.

History: Effective July 1, 1996; amended effective May 1, 2001; July 1, 2004.

General Authority: NDCC 23-01-03, 28-32-02

Law Implemented: NDCC 23-16-01, 28-32-02

33-07-03.2-16. Dietary services.

The facility shall provide for the dietary needs of the residents and provide dietary services in conformance with the food service sanitation manual issued by the department.

Dietary services must include:

1. A qualified director of dietary services must be designated to be responsible for the dietary service of the facility.

a. A director of dietary services is:

(1) A dietitian licensed to practice in North Dakota and registered by the American Dietetic Association;

(2) A graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association;

(3) A certified dietary manager, certified by the certifying board for dietary managers;

(4) A graduate of a state-approved course that provides ninety or more hours of instruction in dietary service supervision in a health care institution with consultation from a licensed and registered dietitian; or

(5) An individual trained and experienced in food service supervision and management in a military service equivalent to the program described in paragraph 2 or 4.

b. If the director of dietary services is not a licensed and registered dietitian, regularly scheduled consultation from a consultant licensed and registered dietitian must be obtained at least monthly.
1. Dietary service personnel and all personnel who are actively engaged in assisting residents with eating must be in good health and practice hygienic food handling techniques.

2. Menus for all diets must be planned in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Science. Sufficient food must be prepared as planned for each meal to meet the nutritional needs of residents.
   a. Menus must be written at least one week in advance. The current week's menus must be located in the dietary services area for easy use by dietary services staff.
   b. When changes in the menu are necessary, substitutions must provide equal nutritive value. The change and the reason for the change must be noted in writing on the menu.
   c. Menus of food served must be filed and maintained for thirty days.
   d. Menus must be adjusted to address the requests of the residents when possible.

3. Therapeutic diets when prescribed by the licensed health care practitioner.

4. At least three meals or the equivalent must be served daily, at regular times.
   a. There must be no more than a fourteen-hour span between a substantial evening meal and breakfast unless a nourishing snack is provided at bedtime. Up to sixteen hours may elapse between a substantial evening meal and breakfast the following day if the residents agree to this meal span and a nourishing evening snack is served.
   b. A substantial evening meal is an offering of three or more menu items at one time, one of which includes a high quality protein item such as meat, fish, egg, or cheese.
   c. Snacks must be offered at bedtime daily.

5. A current diet manual, approved by the medical staff or medical director, must be readily available.

6. Providing each resident with food prepared by methods that conserve nutritive value, flavor, and appearance. The food must be attractively served at the proper temperatures and in a form to meet individual needs. Equipment must be provided and procedures established to:
   a. Maintain hot food above one hundred forty degrees Fahrenheit [60 degrees Celsius] during dishing.
   b. Ensure that cold foods leave the kitchen at no more than forty-five degrees Fahrenheit [7.22 degrees Celsius].

7. Table service for all who can and will eat at a table. For those not eating at a table, the proper eating equipment must be available and used.
8. Facilities for the general dietary needs of the residents, and for the maintenance of sanitary conditions in the storage, preparation, service and distribution of food.

History: Effective July 1, 1996.

General Authority: NDCC23-01-03,28-32-02

Law Implementeda: NDCC23-16-01,28-32-02

33-07-03.2-16.1. Paid feeding assistants.

Any individual employed by a facility, or under contract, to feed or assist with the feeding of nursing facility residents must either have successfully completed a department-approved paid feeding assistant training course or be a certified nurse aide.

1. Instructors of a department-approved paid feeding assistant course must meet the following requirements:

a. The primary instructor of the program must be a licensed health care professional with experience in the feeding of nursing facility residents.

b. Certified nurse aides and paid feeding assistants may not be used as instructors in a department-approved paid feeding assistant course.

2. A department-approved paid feeding assistant course must have a curriculum which contains, at a minimum, eight hours of training.

3. The course must, at a minimum, include the following:

a. Feeding techniques.

b. Assistance with feeding and hydration.

c. Communication and interpersonal skills.

d. Appropriate responses to resident behavior.

e. Safety and emergency procedures, including the Heimlich maneuver.

f. Infection control.

g. Resident rights.

h. Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

4. The instructor must verify in writing the successful completion of the course, including a competency evaluation of feeding skills, by the individual. The process for evaluation of successful completion of the course must be included in the materials submitted to the department for review and approval.
5. The nursing facility must maintain a record of all individuals used by the nursing facility as paid feeding assistants who have successfully completed a department-approved paid feeding assistant training course.

6. The nursing facility must ensure that paid feeding assistants feed only residents who have no complicated feeding problems. Complicated feeding problems include difficulty swallowing, recurrent lung aspirations, and tube or parenteral intravenous feedings.

7. The charge nurse must assess the residents to determine which residents may be fed by a paid feeding assistant. This assessment must be documented and the use of the paid feeding assistant to feed the resident must be included in the residents’ plan of care.

8. The nursing facility must ensure that paid feeding assistants work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid feeding assistant must call a supervisory nurse for help using the resident call system if the nurse is not present during the feeding of a resident.

9. The nursing facility must ensure that the ongoing competency of paid feeding assistants is evaluated and documented at least annually.

10. The initial department approval of a paid feeding assistant course shall be determined based on the review of the information submitted by the nursing facility for compliance with these requirements.

11. The nursing facility must notify the department and receive approval of any subsequent changes in the curriculum or primary instructor of the course.

12. The department shall determine continued compliance with these requirements during an onsite visit to the nursing facility.

13. Failure to comply with these requirements may result in loss of department approval for a paid feeding assistant course to be offered by the nursing facility.

**History:** Effective July 1, 2004.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 23-16-01
3701-17-07 Qualifications and health of personnel.

...(H) A food service manager designated pursuant to paragraph (K) of rule 3701-1718 of the Administrative Code shall have successfully completed a certification in food service course approved by the director in accordance with rule 3701-2125 of the Administrative Code. Individuals serving as food service managers on the effective date of this rule have one year from the rule effective date to comply with this provision.

3701-17-07.2 Dining assistants.

(A) For purposes of this rule:

(1) "Long term care facility" has the same meaning as in rule 3701-17-07.1 of the Administrative Code.

(2) "Dining assistant" means an individual who meets the requirements specified in this rule and who is paid to feed long term care facility residents by a long term care facility or who is used under an arrangement with another agency or organization.

(3) "Supervision" means that the nurse is in the unit where the feeding assistance is furnished and is immediately available to provide help in an emergency.

(4) "Suspension of approval" means that a dining assistant training course is prohibited from providing training to individuals under this rule until the suspension is lifted pursuant to paragraph (K) of this rule.

(5) "Withdrawal of approval" means that a dining assistant training course is no longer eligible to provide training under this rule, but does not prohibit the submission of a new application for approval.

(B) A long term care facility may use dining assistants to feed residents who, based on the charge nurse's assessment of the resident and the most recent resident assessment performed pursuant to rule 3701-17-10 of the Administrative Code and plan of care developed pursuant to rule 3701-17-14 of the Administrative Code, meet the following conditions:

(1) Need assistance or encouragement with eating and drinking;

(2) Do not have a complicated feeding problem, such as the need for tube or parenteral feeding, recurrent lung aspirations or difficulty swallowing that requires assistance with eating and drinking by a registered nurse, licensed practical nurse, or nurse aide.
(C) If a facility uses a dining assistant the facility must ensure that the dining assistant meets the following requirements:

(1) Except as provided in paragraph (D) of this rule, has successfully completed a dining assistant training course approved by the director as specified in paragraph (G) of this rule;

(2) Is not the subject of a finding of abuse or neglect of a resident or misappropriation of the property of a resident on the nurse aide registry, established pursuant to section 3721.32 of the Revised Code; and

(3) Performs duties only for residents who do not have a complicated feeding problem, and under the supervision of a registered nurse or licensed practical nurse.

(D) A person who has successfully completed a training course for dining assistants and has not worked in a long term care facility as a dining assistant for a period of twelve consecutive months shall not be used as a dining assistant in a long term care facility until the person successfully retakes the training course. The facility must maintain a record of all individuals, used by the facility as dining assistants.

(E) The training course for dining assistants shall provide a combined total of at least ten hours of instruction, including a one hour clinical portion. The clinical portion shall be provided for no more than eight participants at one time. The training course shall follow the curriculum specified in the appendix attached to this rule and address the following topics:

(1) Feeding techniques;

(2) Assistance with feeding and hydration, including the use of assistive devices;

(3) Communication and interpersonal skills;

(4) Appropriate responses to resident behavior;

(5) Safety and emergency procedures, including the Heimlich maneuver;

(6) Infection control;

(7) Residents rights;

(8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse;

(9) Special diets;

(10) Documentation of type and amount of food intake; and

(11) Meal observation and actual feeding assistance to a resident.

(F) The instructor or instructors for a dining assistant course shall have appropriate experience and one of the following qualifications:
(1) A current valid license to practice as a nurse, as defined in paragraph (S) of rule 3701-17-01 of the Administrative Code;

(2) A current valid license issued under Chapter 4759. of the Revised Code to practice as a dietitian.

(3) A current valid license issued under Chapter 4753. of the Revised Code to practice as a speech-language pathologist; or

(4) A current valid license issued under Chapter 4755. of the Revised Code to practice as an occupational therapist.

(G) A long term care facility, employee organization, person, governmental entity, or an approved TCEP seeking approval of a dining assistant training course shall make an application to the director on a form prescribed by the director and shall provide any documentation or additional information requested by the director. The application shall include:

(1) An attestation that the information contained in the curriculum attached as appendix A of this rule is understood and will be adhered to; and

(2) The name and documentation of the qualifications of the instructor or instructors, as specified in paragraph (F) of this rule.

(H) The director shall approve an application of a dining assistant training course that demonstrates compliance with the requirements of this rule and, if the course is operated by or in a long term care facility, the facility is not the subject of an action listed in paragraph (I)(2) of this rule. An approved dining assistant training course is not required to renew an approval provided that the director is notified of any changes to the information provided in the original application.

(I) The director may suspend or withdraw approval of a dining assistant training course if at least one of the following applies:

(1) The course is not operated in compliance with this rule; or

(2) The course is operated by or in a long term care facility and one the following applies;

(a) The director has notified the facility of a real and present danger under section 3721.08 of the Revised code;

(b) An action has been taken against the facility under section 5111.51 of the Revised Code; or

(c) The license of the facility is revoked under section 3721.03 of the Revised Code.

(J) Suspension or withdrawal of approval is not subject to appeal. If the director determines that one of the criteria listed in paragraph (I) of this rule applies to a dining assistant training course the director may, upon written notice, immediately suspend the approval of
the training course. The written notice to the dining assistant training course shall provide the following:

(1) The criteria listed in paragraph (I) of this rule giving rise to the suspension or proposed withdrawal of approval;

(2) An opportunity to submit documentation demonstrating that the matter giving rise to the suspension has been corrected;

(3) An opportunity to request an informal review;

(4) An indication of whether the director proposes to withdraw the approval.

(K) If the director determines that the training course has satisfactorily demonstrated that the matter which gave rise to the suspension has been satisfactorily corrected or otherwise does not apply to the training course, the director shall lift the suspension and, if applicable, rescind the proposal to withdraw.

(L) If the director determines that the training course has not satisfactorily demonstrated that the matter which gave rise to the suspension has been corrected the director shall withdraw the training course approval.


3701-17-18 Food and nutrition.

(A) Each nursing home shall have a kitchen and other food service facilities which are adequate for preparing and serving appetizing food for all residents. The nursing home shall develop and implement a policy addressing its method for accommodating religious, ethnic and cultural and personal preferences.

(B) Each nursing home shall provide at least three nourishing and appetizing meals daily to all residents at regular hours. There shall be at least a four-hour interval of time between the breakfast and noon meal and between the noon and evening meal. There will be no more than sixteen hours between the evening meal and breakfast. Each nursing home shall offer a nourishing snack, consisting of a choice of beverages and a food item from a basic food group, after the evening meal. Food substitutes of similar nutritive value shall be offered to residents who refuse the food served and serving size may be adjusted according to resident preference. The nursing home shall accommodate a resident’s preference or medical need to eat at different intervals.

(C) A nursing home may provide home-style meal or buffet service if the residents agree to participate in the meal service and the home:

(1) Uses precautions to prevent contamination of food being served;
(2) Assists residents when necessary; and

(3) Complies with the other requirements of this rule. For purposes of this paragraph, "home-style meal service" means a dining experience where small groups of residents sit together for a meal and each resident portions his or her own food onto his or her plate from a serving platter or bowl. The serving platter or bowl is then passed to another resident in the group. "Buffet service" means an informal meal service that is set up in a manner that allows residents to portion their own food onto their plates from a buffet of food items and transport to a table in the dining area for consumption.

(D) Each nursing home shall maintain at all times sufficient food supplies for residents. The home shall maintain at least two days’ supply of perishable food items and at least one week’s supply of staple food items. The amount of such supplies shall be based on the number of meals that the nursing home provides and the nursing home’s census.

(E) Each nursing home shall have planned menus, which are approved by the dietitian required by paragraph (K) of this rule, for all meals, including special diets, at least one week in advance. Menus shall be varied and be based on a standard meal planning guide published or approved by a licensed or registered dietitian in accordance with acceptable standards or practice. The nursing home shall maintain records for all meals, including special diets, as served. The meal records shall be kept on file in the nursing home for at least one year after being served and made available to the director upon request. The records shall indicate the date that each meal was served along with any food substitutions from the menu.

(F) Each nursing home shall provide nourishing, palatable and attractive meals that provide the recommended dietary allowances of the "Food and Nutrition Board" of the "National Academy of Sciences". Food shall vary in texture, color and seasonal items. The food shall be prepared and served in a form that meets the resident’s needs based on the assessment conducted pursuant to rule 3701-1710 of the Administrative Code.

(G) Safe, fresh, and palatable drinking water shall be accessible for residents at all times.

(H) Special diet menus shall be adjusted as directed by the dietitian required under paragraph (K) of this rule or the resident’s attending physician. The special diet shall be prepared and served as ordered.

(I) The nursing home shall monitor each resident’s nutritional intake and make adjustments in accordance with the resident’s needs. Notification of any significant unplanned or undesired weight change shall be made to the resident’s attending physician and the dietitian required by paragraph (K) of this rule. "Significant unplanned or undesired weight change" means a five per cent weight gain or loss over a one month period, a seven and one-half per cent or more weight gain or loss over a three month period, or a ten per cent or more weight gain or loss over a six month period.
(J) The nursing home shall store, prepare, distribute and serve food under sanitary conditions and in a manner that protects it against contamination and spoilage in accordance with food service requirements of Chapter 3717-1 of the Administrative Code.

(K) Each nursing home shall employ a dietitian, who may be hired on a full-time, part-time or consultant basis, to plan, manage and implement dietary services that meet the residents' nutritional needs and comply with the requirements of this rule. If the home does not have the full-time equivalent of a dietitian, the nursing home shall designate a person who meets the qualifications specified in paragraph (H) of rule 3701-17-07 of the Administrative Code, to serve as the food service manager. The part-time or consultant dietitian, at a minimum, shall consult monthly with the food service manager. Each nursing home shall ensure that the dietitian performs the following functions:

(1) Assesses, plans, manages and implements nutritional services that meet the needs of the residents;

(2) Oversees the development and implementation of policies and procedures which assure that all meals are prepared and served as ordered and that food service personnel maintain sanitary conditions in procurement, storage, preparation, distribution and serving of food;

(3) Monitors at least quarterly, or more often as determined by the dietitian, food preparation staff, staff responsible for carrying out the duties specified in this rule, and residents on special diets;

(4) Evaluate residents' response to new calculated diets, and the home’s compliance in the provision of such diet, within one month after the nursing home commences providing the diet. For the purposes of this provision, "new" means either a food regimen that the nursing home has never before supervised or a food regimen that has been prescribed for a resident for the first time; and

(5) Oversees, or arranges for, the training of staff in performing the duties specified in this rule and in the preparation of special diets. Trained unlicensed staff, including the dietary manager, may perform routine tasks that:

(a) May be delegated pursuant to Chapter 4759. of the Revised Code and this rule; and

(b) Do not require professional judgment or knowledge.

(L) Tube feedings and parenteral nutrition shall be administered by the appropriate licensed health professionals in accordance with acceptable standards of practice. Tube feedings shall not be used for convenience or when in conflict with treatment decisions, or a resident's advance directive, in accordance with applicable provisions of Chapters 1337. and 2133. of the Revised Code.

R.C. 119.032 review dates: 05/19/2006 and 05/01/2011 CERTIFIED ELECTRONICALLY_________ Certification 05/19/2006___ Date Promulgated Under:
310:675-9-4.1. Supplies and equipment

(b) The minimum level of supplies including but not limited to food and other perishables is a three (3) day supply. [Source: Added at 9 OkReg3163, eff 7-1-92 (emergency); Added at 10OkReg 1639, eff 6-1-93; Amended at20 Ok Reg 2399, eff7-11-03]

310:675-5-9. Dietary facilities

Shall be provided in such size as required to implement the type of food service system selected:

1) Control station for receiving food supplies.

2) Storage space for four (4) days' supply including cold storage.

3) Food preparation facilities as required by program. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services will require space and equipment for thawing, portioning, cooking, and/or baking.

4) Hand washing facility(ies) in the food preparation Area.

5) Resident meal service space including facilities for tray assembly and distribution.

6) Dining Area for ambulatory residents, staff, and visitors.

7) Warewashing in a room or an alcove separate from food preparation and serving areas. This shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available.

8) Pot washing facilities.

9) Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors.

10) Waste storage facilities in a separate room which is easily accessible to the outside for direct pickup or disposal.
11) Office or suitable work space for the dietitian or the dietary service manager.

12) Toilets for dietary staff with hand washing facility immediately available.

13) Janitor's closet located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

14) Self-dispensing ice making facilities. May be in area separate from food preparation area but must be easily cleanable and convenient to dietary facilities. Bulk ice dispensing units must be accessible only to authorized staff members.

310:675-9-12.1. Dietary services

a) Services. The facility shall provide dietary services to meet the resident's nutritional needs. There shall be a designated staff person qualified by experience or training, responsible for directing or supervising the dietary services. The food service supervisor, in conjunction with a qualified nutritionist or registered/licensed dietitian, shall develop a dietary care plan for each resident. There shall be sufficient dietary staff to meet the needs of all residents.

b) Clinical record. The dietary services provided to residents needing dietary intervention shall be recorded in the clinical record. Progress notes for these residents shall be written at least monthly, or when a significant change in the resident's condition occurs.

c) Nutritional assessment. A nutritional assessment shall be completed for each resident that addresses all pertinent dietary problems such as chewing or swallowing, elimination, appetite or eating habits, pertinent lab results, weight and height, diet and medication interactions, food preferences and assistive devices. The dietary staff shall have input into the resident's individual care plan.

d) Diet. The facility shall provide a nourishing, palatable, well-balanced diet that meets the resident's daily nutritional and special dietary needs.

1) Meals.

A) The facility shall serve at least three regularly scheduled meals, or their equivalent daily. There shall be at least four hours between each meal.

B) Diets shall be prescribed by the resident's physician and shall be planned, in writing, reviewed, approved and dated by a qualified nutritionist or registered/licensed dietitian. A therapeutic diet shall be served with skillful attention to the diet control system. Portioning of menu servings shall be accomplished with portioned control serving utensils.

C) Substitutes of similar nutritive value shall be offered when a resident refuses served menu items.

D) Residents at nutritional risk shall have timely and appropriate nutrition intervention.
E) Nourishments shall be available and may be offered at any time in accordance with approved diet orders and resident preference. Bedtime nourishment shall be offered to all residents.

F) There shall be an identification system established and updated, as needed, to ensure that each resident receives the prescribed diet.

G) The percentages of consumed meals, supplements and meal replacements ingested shall be observed and recorded in the clinical record at the time of observation.

(2) Menus.

A) Menus shall be posted, planned, and followed to meet the resident’s nutritional needs in accordance with the physician’s orders.

B) The menus shall, to the extent medically possible, be in accordance with the daily recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

C) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a qualified nutritionist or registered/licensed dietician. The facility shall maintain a thirty day record of past menus.

D) The facility shall maintain a file of tested recipes that includes therapeutic alterations for quantity food preparation for menu items.

e) Tube feeding. Tube feeding orders shall be evaluated for nutritional adequacy. The requirements for caloric intake, protein, fluid and percentage of the daily recommended dietary allowances shall be calculated to determine nutritional adequacy.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-13.1. Food storage, supply and sanitation

(a) Food shall be stored, prepared and served in accordance with Chapter 257 of this Title (relating to food service establishments) with the following additional requirements.

(b) Ice machines available to the residents, or the public, shall be a dispenser type, or have a locking enclosure.

(c) A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

(d) Milk, milk products and eggs.
(1) Only grade A pasteurized fluid milk, as defined by the Oklahoma Grade A Milk and Milk Products Act, Title 2 O.S. §7-401 through 2 O.S. §7-421, shall be used for beverage and shall be served directly into a glass from a milk dispenser or container.

(2) Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products, or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked, the foods shall be consumed within twenty-four (24) hours.

(3) Milk for drinking shall be stored at a temperature of 41° or below and shall not be stored in a frozen state.

(4) Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hardboiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs maybe used in place of pooled eggs or raw or undercooked eggs.

(e) Applicability. This section shall only apply to food prepared or served by the facility, within the licensed facility. [Source: Added at 9 OkReg3163, eff 7-1-92 (emergency); Added at 10OkReg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-071; Amended at 25 Ok Reg 2482, eff 7-11-08]

310:675-13-6. Registered/licensed dietician or qualified nutritionist

(a) The facility shall have a registered/licensed dietician or qualified nutritionist to sufficiently meet the needs of all residents. The registered/licensed dietician or qualified nutritionist shall consult with the food service supervisor, director of nursing, administrator and physicians.

(b) The registered/licensed dietician or qualified nutritionist shall supervise and direct the residents' nutritional care, advise and consult with appropriate staff, and provide in service training for food service personnel and direct care staff.

(c) A qualified nutritionist shall complete eight hours of continuing education a year approved by the Department. [Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 100k Reg 1639, eff 6-1-93]

310:675-13-7. Food service staff

(a) Food service supervisor.
(1) The food service supervisor shall be responsible for all aspects of food service preparation and delivery. The food service supervisor may serve only one facility. The food service supervisor hours shall be sufficient to meet the residents' needs.

(2) The food service supervisor shall complete certification as a dietary manager within three (3) years of beginning employment.

(3) The food service supervisor shall complete, and maintain continuous, Serve Safe food safety certification, or a Department approved alternative, within ninety (90) days of beginning employment.

(b) Food service staff.

(1) The facility shall have food service staff on duty sufficient to meet the residents' needs. There shall be at least one (1) hour of food service staff per three (3) residents, a day based on the daily census.

(2) The food service staff shall complete basic orientation program before working in the food service area. This orientation shall include, but not be limited to: fire and safety precautions, infection control, and sanitary food handling practices.

(3) Each food service staff member shall successfully complete a food service training program offered or approved by the Department within ninety (90) days of beginning employment.

Food service training shall be renewed as required by the authorized training program.

[Source: Added at 9 OkReg3163, eff 7-1-92 (emergency); Added at 10 OkReg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-071; Amended at 25 Ok Reg 2482, eff 7-11-08]

Subchapter 19 - Feeding Assistants

310:675-19-1. Purpose

This Subchapter establishes standards for training and registration of feeding assistants in Oklahoma in accordance with 42 Code of Federal Regulations Parts 483 and 488. The intent is to give nursing, specialized nursing, and skilled nursing facilities the option to use paid feeding assistants, allowing them to provide more residents with help in eating and drinking and reduce the incidence of unplanned weight loss and dehydration. [Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:
"Feeding assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488 [63:1-1951(F)(1)]. [Source: Added at 23 Ok Reg 557, eff12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-3. Training course

(a) The following training curricula are approved as training courses and meet the requirements specified in 42 CFR 483.160(a):


(b) A feeding assistant training course must consist of at least eight (8) hours of training in the required areas of instruction.

(c) A feeding assistant training course instructor must hold a current valid license as:

(1) A registered nurse;

(2) A licensed practical nurse;

(3) A registered dietitian;

(4) A speech-language pathologist or speech therapist; or

(5) An occupational therapist.

(d) Successful completion of a training course is based upon the instructor's assessment using a staff competency checklist that conforms to OAC310:675-19-8.

(e) The training course must provide a certificate of completion within 30 days of course completion to each individual who successfully completed the course. The certificate shall conform to OAC 310:675-19-8.

(f) The Department will not restrict an individual from repeating a training course. The training course may establish limits on the number of times an individual may repeat the course after unsuccessful attempts. [Source: Added at 23 Ok Reg 557, eff12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-4. Facility requirements

(a) The nursing facility, specialized nursing facility, or skilled nursing facility must maintain a record of each individual who has successfully completed the approved training course. For each individual feeding assistant employed by the facility, the facility must maintain:
(1) A copy of a staff competency checklist completed and signed by the instructor on the form specified in OAC 310:675-19-8;

(2) A copy of a certificate of completion signed by the instructor on the form specified in OAC 310:675-19-8;

(3) Verification that the facility checked with the Feeding Assistant Registry to ensure the individual is eligible for employment; and

(4) Verification of compliance with the Criminal History Background Check in 63O.S. Supp. 2004, Section 1-1950.1.

(b) Each feeding assistant must work under the supervision of a registered nurse or licensed practical nurse. In an emergency, the feeding assistant must call a supervisory nurse for help using the resident call system if the nurse is not present during the feeding of a resident.

(c) The facility must ensure that a feeding assistant only assists residents who have no complicated feeding problems. The facility must base resident selection on the charge nurse's assessment and the resident’s latest assessment and plan of care. Complicated feeding problems include but are not limited to:

(1) Difficulty swallowing;

(2) Recurrent lung aspirations; or

(3) Tube or parenteral/IV feedings.

(d) Instructor time shall not count toward minimum staffing requirements.

(e) The facility shall check the Feeding Assistant Registry before hiring a person to work as a feeding assistant. If the registry indicates that the individual has been found to be personally responsible for abuse, neglect, exploitation, or misappropriation of resident property, that individual shall not be hired by the facility.

(f) The facility must maintain proof of compliance with this subchapter at all times at the facility site.[Source: Added at 23 Ok Reg 557, eff12-22-05 (emergency);Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-5. Feeding assistant registry

The Department shall maintain a feeding assistant registry consistent with the registry operation described in OAC 310:677-5-2(c). The registry shall contain information consistent with that described in 63 O.S. Supp. 2004, Section 1-1951(D)(3). [Source: Added at 23 Ok Reg 557, eff12-22-05 (emergency);Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-6. Feeding assistant registration
(a) An individual may perform the services of a feeding assistant upon successful completion of an approved training course and shall submit a Feeding Assistant Registration Application to the Department on the form specified in 310:675-19-8.

(b) Each registered feeding assistant shall renew individual registration once every twenty-four (24) months. The individual shall submit a Feeding Assistant Renewal Application with proof that within the past twenty-four (24) months they have:

(1) Worked at least eight (8) hours for compensation as a feeding assistant; or

(2) Completed another eight (8) hour training course that complies with OAC 310:675-19-3.

(c) A non-refundable application fee of ten dollars ($10) shall be included with an application for initial or renewal registration. [Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06; Amended at26 Ok Reg 2059, eff 6-25-09]

310:675-19-7. Revocation, suspension and denial

(a) The State Health Department's procedure afforded a feeding assistant for purposes of investigating, hearing, and making findings on allegations of abuse, neglect, exploitation, or misappropriation of resident property, shall be not less than the process afforded nurse aides pursuant to Title 63 O.S. Supp. 2004 Section 1-1951(D)(4) through (12).

(b) A feeding assistant’s registration may be revoked, suspended or denied if the Department determines with clear and convincing evidence that an individual has been responsible for any of the following:

(1) Abuse;

(2) Neglect;

(3) Exploitation; or

(4) Misappropriation of resident or client property. [Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-8. Feeding assistant forms

The forms used for this subchapter are the following.

(1) Staff competency checklist. A training course using the curriculum specified in 310:675-193(a)(1) may use the checklist provided with that curriculum or the checklist
provided by the Department. Other training courses shall use the checklist provided by the Department. The competency checklist provided by the Department requires the following:

(A) The name of the person being trained;

(B) Evaluation of skills task performances including:

(i) Safety and emergency procedures including the Heimlich maneuver;

(ii) Sanitation and washing hands;

(iii) Serving a meal tray;

(iv) Assistance with resident requiring total feeding;

(v) Serving supplemental nourishments; and

(vi) Serving fresh drinking water;

(C) The date of the evaluation; and

(D) Name and signature of the instructor.

(2) Certificate of completion. A training course using the curriculum specified in 310:675-193(a)(1) may use the certificate of completion provided with that curriculum or the certificate provided by the Department. Other training courses shall use the certificate provided by the Department. The certificate of completion provided by the Department requires the following:

(A) Name of the person being trained;

(B) Name of the curriculum;

(C) Location where the training occurred;

(D) Date training was completed;

(E) A statement that the person successfully completed eight hours of training to become a feeding assistant; and

(F) Name and signature of the instructor.

(3) Feeding assistant registration application. The application form requires the following for each individual:

(A) Name;

(B) Date of birth;

(C) Contact information;

(D) Information sufficient to identify the individual including social security number;
(E) A copy of the certificate of completion from a training course that meets the requirements of OAC 310:675-19-3; and

(F) Applicant’s signature affirming the truthfulness and completeness of the application.

(4) Feeding assistant renewal application. The application form requires the following for each individual:

(A) Name;

(B) Date of birth;

(C) Contact information;

(D) Information sufficient to identify the individual including social security number;

(E) Proof of work experience or retraining as required in OAC 310:675-19-6(c); and

(F) Applicant’s signature affirming the truthfulness and completeness of the application. [Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]
The facility shall have a dietary services department, which complies with the Food Sanitation Rules, Oregon Administrative Rules Chapter 333, Divisions 150 through 156.

a) Admittance to the kitchen shall be restricted to those who must enter to perform their duties, to government inspectors, or for peer review.

b) Written procedures for cleaning equipment and work areas shall be prepared and enforced.

c) Foods shall be protected from contamination during transportation.

d) There shall be a minimum of one week supply of staple foods and two-day supply of perishable foods on the premises.

2) DIETARY SERVICES DIRECTOR.

a) Qualifications. Overall supervision of the dietary service shall be assigned to a full-time dietary service director, who is a registered dietician, or:

A) Is a graduate of a dietetic technician training program (correspondence or classroom) approved by the American Dietetic Association or dietary management training approved by the American Dietary Manager Association; and

B) Has on-site consultation provided at least monthly.

i) The consultant shall be a registered dietician or a person with a baccalaureate degree or higher with major studies in food, nutrition, diet therapy, or food service management.

ii) The consultant shall have at least one year of supervisory experience in an institutional dietary service and shall participate in continuing education annually.

iii) The visits of the consultant shall be of sufficient duration to review dietary systems and assure quality food to the resident.

b) Responsibilities. The dietary services director has responsibility, with guidance from the consultant if the director is not a registered dietician, for:

A) Orientation, work assignments, supervision of work, and food handling technique for dietary service staff. The director shall assure that employees who have or exhibit signs of a communicable disease do not remain on duty;

B) Participation in regularly scheduled conferences with the administrator and department heads and in the development of dietary policy (OAR 411-085-0210), procedures, and staff development programs; and

C) Menu planning, recommending and/or ordering food and supplies to be purchased, and record-keeping.

3) STAFFING.
The facility shall employ supportive personnel to carry out functions of the dietary service. There shall be food service personnel on duty at least 12 consecutive hours each day.

4) DIETS AND MENUS.

a) Diets shall be prescribed by the attending physician. Therapeutic menus shall be prepared and served as ordered.

(b) A diet manual, approved by a dietitian, shall be readily available to the attending physician, nursing and dietary service personnel. The manual shall be reviewed at least annually by the dietician.

A) Menus for regular and routine therapeutic diets shall be planned in writing at least three weeks in advance.

B) The current week’s menu shall be posted in the dietary department and in a location accessible and conspicuous to residents.

C) A different menu shall be followed for each day for a minimum of twenty-one days (this does not apply to facilities using selective menus).

D) Menus shall include fresh fruits and vegetables in season.

E) Records of menus, as served, shall be retained for sixty days (this does not apply to facilities using selective menus).

c) Menus shall be planned and followed to meet nutritional needs of the resident in accordance with physician orders and, to the extent medically possible, in accordance with the recommended dietary allowances in the facility diet manual (see subsection (4)(b) of this rule).

5) FOOD PREPARATION AND SERVICE.

a) Foods shall be prepared by methods which conserve nutritive value, flavor, and appearance. A file of recipes adjusted to appropriate yield shall be maintained.

b) Foods shall be attractively served in a form cut, chopped, ground, or pureed to meet individual needs and delivered to residents at customarily acceptable temperatures.

c) Residents requiring assistance with feeding shall receive timely assistance while food is at customarily acceptable temperatures.

d) An identification system shall be established to ensure that each resident receives diet as ordered.

e) At least three meals or their equivalent shall be served daily at regular hours with not more than a 14 hour span between the beginning of the substantial evening meal and the beginning of breakfast. A substantial evening meal is an offering of three or more menu items at one time, one of which includes a high quality protein such as meat, fish, eggs, or cheese. The meal represents no less than 25 percent of the day’s total nutritional requirements.
f) Bedtime snacks of nourishing quality shall be offered routinely to residents who desire one and for whom it is not medically prohibited. Snacks of nourishing quality are those which provide substantive nutrients in addition to carbohydrates and calories, e.g., milk and milk drinks and fruit juice.

g) If a resident refuses a food served, substitute foods of necessary nutritional food elements shall be offered.

(6) DOCUMENTATION.

Resident's response to diet shall be recorded in the clinical record when there are significant dietary problems.

(7) DINING ASSISTANT.

Facilities may use dining assistants to assist residents with feeding and hydration. “Dining Assistant” means a person 16 years of age or older who has successfully completed a Department- approved Dining Assistant training course and competency evaluation. Dining assistants include volunteers participating in facility volunteer programs who feed residents.

(a) Resident selection criteria

(A) The facility must ensure that a dining assistant feeds and hydrates only residents who have no complicated feeding problems including, but not limited to, difficulty swallowing, recurrent lung aspirations and tube or parenteral/IV feedings.

(B) The facility Director of Nursing Services, RN Care Manager or RN Charge Nurse must assess and document resident selection for dining assistance. The resident assessment is based on, but is not limited to:

(i) the resident’s appropriateness for dining assistance;

(ii) the resident’s feeding and hydration needs;

(iii) the resident’s communication, behavior and interpersonal skills;

(iv) Risk factors including nausea (acute and ongoing), difficulty swallowing, seizure disorders, acute gastrointestinal issues, vomiting; and

(v) the resident’s latest MDS assessment and plan of care.

(C) The documented assessment must be updated promptly after any significant change of condition and reviewed quarterly.

(b) Scope of Duties

(A) Permitted Duties

(i) Assist residents with eating and drinking
(ii) Transport residents to and from dining area;

(iii) Distribute meal trays;

(iv) Ensure accurate meal delivery by verification with accompanying meal card;

(v) Provide assistance in preparing residents for meals including, but not limited to, placement of eye glasses, washing hands and face and placement of clothing protector;

(vi) Assist with insertion of dentures for residents that can self direct care;

(vii) Set up meal tray for residents including, but not limited to, opening food packets, positioning and cutting the food;

(viii) Provide minimal assistance with positioning, as needed, for feeding and hydration and;

(ix) Measure and record food and fluid intake.

(x) Measure and record food and fluid intake.

(B) Prohibited Duties

(i) Transfer residents;

(ii) Assist with tube feeding or IV nutrition;

(iii) Assist with insertion of dentures for residents unable to self direct care;

(iv) Provide standby assistance with ambulation or activities requiring gait belt;

(v) Assist with food containing medication;

(vi) Turn, lift or extensively reposition residents; and

(vii) Other CNA tasks including oral care.

(c) Training. A Department-approved facility Dining Assistant training course must include, at a minimum, 16 hours of training and evaluation in the following topics and subject matters and as identified in Exhibit 86-2, which is attached to and made a part of these rules

(A) Training Topics

(i) Scope of authorized duties and prohibited tasks.

(ii) Feeding and hydration techniques.

(iii) Skills for assisting with feeding and hydration.

(iv) Communication and interpersonal skills.

(v) Appropriate responses to resident behavior.
(vi) Recognizing changes in residents that are inconsistent with their normal behavior and the reporting of those changes to the registered nurse (RN) or licensed practical nurse (LPN).

(vii) Safety and emergency procedures including the abdominal thrust.

(viii) Infection control.

(ix) Assisting residents with dementia.

(x) Resident rights.

(xi) Abuse prevention and reporting.

B) Instructors of the Department-approved facility Dining Assistant training course must be licensed/certified in one of the following disciplines: registered nurse, registered dietician, occupational therapist or speech language pathologist.

(C) “Successful completion” means a passing score on a written exam for a Department-approved facility Dining Assistant training course and satisfactory completion of competency evaluation as determined by the instructor. A Department-approved certificate will be issued to each dining assistant upon successful completion.

(D) The Department will evaluate, select and approve at least one Dining Assistant training course curriculum which includes the topic and subject matters contained in Exhibit 86-2. The Department will periodically re-evaluate its selection and approval.

(d) Supervision of dining assistants

(A) Dining assistants must work under the supervision of a registered nurse or licensed practical nurse. A registered nurse or licensed practical nurse must be readily available to respond to urgent or emergent resident needs.

(B) In an emergency, dining assistants must immediately obtain appropriate staff assistance including the use of the resident call system.

(e) Facilities must ensure that dining assistants perform only those tasks for which they are trained and permitted to perform.

(f) It is the responsibility of the facility Director of Nursing Services, RN Care Manager or licensed Charge Nurse to ensure that dining assistants are oriented to the specific residents to whom they are assigned prior to providing dining assistance.

(g) Maintenance of records. Facilities must maintain a record of all facility dining assistants. The record must contain a copy of each dining assistant’s certificate for successful completion of a Department-approved Dining Assistant training course. Upon request, a facility will share copies of dining assistant training certificates with other facilities.

[ED. NOTE: Exhibit referenced are available from the agency.]

Stat. Auth: ORS 410 & 441
411-087-0200 Dietary Services (Effective 1/1/92)

(1) FOOD SANITATION RULES. Construction, equipment, and installation shall comply with OAR Chapter 333, Divisions 150 through 156.

(2) FOOD PREPARATION AREAS. The dietary services area shall include:

a) Space and equipment for preparing, cooking, and baking;

b) Ice making equipment which is easily cleanable. All ice dispensing equipment which is not in the dietary services area but is accessible to residents shall be self-dispensing;

c) Space for tray assembly and distribution;

d) Hand wash sink; and

e) Design shall provide for flow of clean items/food and soiled items/food in a manner which avoids potential for contamination.

(3) FOOD RECEIVING, STORAGE and OTHER WORK AREAS. The dietary services area shall include the following which shall not be in the food preparation area:

a) Storage space for 7 days’ supply including cold storage for 2 days’ food needs;

b) An area designated for receiving food supplies;

c) Dishwashing equipment and work area;

d) Office or suitable work space for the dietitian or the dietary service manager;

e) Janitor's closet for exclusive use of the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies;

f) Cart storage and cart sanitizing area. This area may be shared with other departments if located outside the dietary services area. If located outside, the area shall be covered and paved;

g) Waste storage facilities in a separate area easily accessible to the outside for direct pickup or disposal; and

h) Toilet room. There shall be a staff toilet room accessible within twenty-five feet of the dietary services area. The toilet room shall not open directly to the food preparation area.

4) EXCEPTIONS.
a) Toilet Room. The distance to the toilet room may exceed twenty-five feet if the facility has been continuously licensed since January 1, 1992 unless otherwise provided by OAR 411-087-0010.

b) Office. The office space required in subsection (3)(d) of this rule may be outside the dietary services area if the facility has been continuously licensed since January 1, 1992 unless otherwise provided by OAR 411-087-0010.

c) Closet. The janitor's closet required in subsection (3)(e) of this rule may be outside the dietary services area if the facility has been continuously licensed since January 1, 1992 unless otherwise provided by OAR 411-087-0010. In such circumstances, the facility shall have a documented system to ensure mops and other cleaning supplies used in nursing or laundry areas are not used in the dietary services area.

d) Cart Storage/Sanitizing. If located outside, the cart sanitizing and storage area is not required to be paved and covered if the facility has been continuously licensed since January 1, 1992 unless otherwise provided by OAR 411-087-0010.

Stat. Auth.: ORS 410 Stats. Implemented: ORS 441.055 & 441.615

EXHIBIT 86-2: Dining Assistant Training Curriculum

1. Definition of Dining Assistant and Permitted and Prohibited Duties.

2. Dining, Hydration and Other Techniques.

   a. Hand over hand

   b. Cuing and prompting

   c. Use of proper utensils and assistive devices (rim plates, weighted spoons, nose and sippy cups, straws, etc.)

   d. Proper positioning of dining assistant and residents

   e. Visually Impaired Clock Method

   f. Setting up the meal

   g. Pace of feeding methods

   h. Preparation of dentures for application (not to include oral care)

   i. Proper transportation techniques to and from dining area (wheelchair, walker, gerichair and meriwalker)
3. Dining and Hydration Concepts.
   a. Diet types, textures and fluid consistencies
   b. Food pyramid
   c. Importance and promotion of fluid intake
   d. Environmental considerations while feeding
   e. Measurement and recording of foods and fluids
   f. Accessing information regarding specific feeding directives
   g. Basic anatomy of chewing and swallowing (introduction of Dysphasia, aspiration, choking and signs of difficulty swallowing)
   h. Methods of serving trays

   a. Definitions of communication (verbal, nonverbal, etc.)
   b. Techniques and adaptations to resident needs (cuing, prompting)
   c. Significance of positive and negative communication on nutrition
   d. Residents with sensory deficits
   e. Resident social interactions during dining
   f. Access and use of plan of care

5. Appropriate Responses to Resident Behaviors.
   a. Understanding resident behaviors (refusing to eat, taking of other residents’ food, biting down on spoon, etc.)
   b. Responding to expected and unexpected behaviors
   c. How to describe resident behavior(s)
   d. What to report regarding resident behavior(s)
   e. Understanding and Feeding Residents with Dementia.
      f. Characteristics of Dementia
      g. Causes of Dementia (head injury, alcohol abuse, Parkinson’s, etc.)
      h. Progression of Dementia and how it may affect dining and hydration
i. Approaches and techniques for assisting residents with Dementia

   a. Definition of observation and opinion
   b. How and to whom changes in condition are reported
   c. Identify types and timing of information that needs to be reported.

7. Safety and Emergency Procedures.
   a. Introduction to safety and emergency procedures
   b. Finger Sweep and Abdominal Thrust emergency techniques
   c. Choking prevention and detection
   d. What not to do during a choking episode
   e. Scalds and burns

8. Infection Control.
   a. Standard Precautions
   b. Proper glove use (when and how to use)
   c. Food sanitation
   d. How infections spread
   e. Reporting of open wounds or illness

9. General Food Safety.
   a. Basics of food borne illnesses
   b. Understanding and maintaining safe and palatable food temperatures

10. Resident Rights, Abuse and Reporting Abuse.
   a. Resident Rights in general
   b. Rights specific to dining and hydration (right to refuse, choice, dignity, etc.)
   c. Abuse definition and reporting
   d. Abusive conduct
   e. Requirements for reporting abuse and to whom
   f. Consequences of abuse findings
g. Roles of Office to Long Term Care Ombudsman, Protective Services, Client Care Monitoring Units, and surveyors.

h. Confidentiality and how it applies to dining assistants.


a. Hand washing

b. Assisting a Resident with Dining

**PENNSYLVANIA**

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§ 211.6. Dietary services.

a) Menus shall be planned at least 2 weeks in advance. Records of menus of foods actually served shall be retained for 30 days. When changes in the menu are necessary, substitutions shall provide equal nutritive value.

b) Sufficient food to meet the nutritional needs of residents shall be prepared as planned for each meal. There shall be at least 3 days’ supply of food available in storage in the facility at all times.

c) Overall supervisory responsibility for the dietary services shall be assigned to a full-time qualified dietary services supervisor.

d) If consultant dietary services are used, the consultant’s visits shall be at appropriate times and of sufficient duration and frequency to provide continuing liaison with medical and nursing staff, advice to the administrator, resident counseling, guidance to the supervisor and staff of the dietary services, approval of menus, and participation in development or revision of dietary policies and procedures and in planning and conducting in service education and programs.

e) A current therapeutic diet manual approved jointly by the dietitian and medical director shall be readily available to attending physicians and nursing and dietetic service personnel.

f) Dietary personnel shall practice hygienic food handling techniques. An employee shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. Employees shall wash their hands thoroughly with soap
and water before starting work, after visiting the toilet room and as often as necessary to remove soil and contamination.

Authority: The provisions of this § 211.6 amended under section 803 of the Health Care Facilities Act (35 P. S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).


Notes of Decisions: Although hygienic food handling and general dietary supervision are required by Health Care Facilities Act regulations, alleged wrong doing of skilled nursing facility that led to resident’s death by salmonella poisoning did not involve “furnishing of medical services” as contemplated by the Act’s definition of “professional liability” and therefore, was outside coverage by the Medical Professional Liability Catastrophe Loss Fund. Stenton Hall v. Medical Liability Loss Fund, 829 A.2d 377, 384 (Pa. Cmwlth. 2003); appeal denied 857 A.2d 681 (Pa. 2004).

§ 207.4. Ice containers and storage.

Ice storage containers shall be kept clean, and ice shall be handled in a sanitary manner to prevent contamination.

Authority: The provisions of this § 207.4 amended under section 803 of the Health Care Facilities Act (35 P. S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).


§ 205.24. Dining room.

a) There shall be a minimum dining area of 15 square feet per bed for the first 100 beds and 13 1/2 square feet per bed for beds over 100. This space is required in addition to the space required for lounge and recreation rooms. These areas shall be well lighted and well ventilated.

b) Tables and space shall be provided to accommodate wheelchairs with trays and other devices.
Authority: The provisions of this § 205.24 amended under section 803 of the Health Care Facilities Act (35 P. S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).


§ 205.25. Kitchen.

a) There shall be at least one kitchen large enough to meet the needs of the facility.

b) A service pantry shall be provided for each nursing unit. The pantry shall contain a refrigerator, device for heating food, sink, counter and cabinets. For existing facilities, a service pantry shall be provided for a nursing unit unless the kitchen is sufficiently close for practical needs and has been approved by the Department.

Authority: The provisions of this § 205.25 amended under section 803 of the Health Care Facilities Act (35 P. S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

a) has satisfactorily completed a training program approved by the Director, as described in section 25.14 of these regulations;

b) continues to provide competent eating and hydration assistance as determined by the facility’s professional nursing staff.

25.13 The facility shall ensure: a) the resident attendant works in congregate dining areas under the supervision of a registered nurse (RN) or licensed practical nurse (LPN); b) the resident attendant wears a photo identification badge in accordance with section 14.14 of these regulations; c) the resident attendant only assists residents selected by the professional nursing staff, based on the charge nurse’s assessment and the resident’s latest assessment and plan of care;

d) the resident attendant assists with eating and drinking for residents who have no complicated eating/feeding problems, including but not limited to:

i. Tube or parenteral/IV feedings;

ii. Recurrent lung aspirations;

iii. Difficulty swallowing;

iv. Residents at risk of choking while eating or drinking;

v. Residents with significant behavior management challenges while eating or drinking;

vi. Residents presenting other risk factors that may require emergency intervention.

e) maintenance of records regarding individuals acting as resident attendants and the training program attended.

Section 27.0 Dietetic Services

27.1 Each facility shall maintain a dietetic service under the supervision of a full-time person who, as a minimum, is a graduate of a State approved course that provided instruction in food service supervision and nutrition and has experience in the organization and management of food service.

a) When the dietary manager is absent, a responsible person shall be assigned to supervise dietetic service personnel and food service operations.

27.2 When the dietary manager is not a qualified dietitian who is registered or eligible for registration by the commission of dietetic registration and/or licensed by the State, the
facility shall obtain per written contractual arrangement adequate and regularly scheduled consultation from a qualified dietitian.

27.3 The responsibilities of the qualified dietitian shall include but not be limited to:

a) advising the administration and the supervisor of dietetic services on all nutritional aspects of resident care, food service and preparation;

b) reviewing food service policies, procedures and menus to insure the nutritional needs of all residents are met in accordance with reference 12;

c) serving as liaison with medical and nursing staff on nutritional aspects of resident care;

d) advising on resident care policies pertaining to dietetic services;

e) providing dietary counseling to residents when necessary;

f) planning and conducting regularly scheduled in-service education programs which shall include training in food service sanitation;

g) preparing reports which shall include date and time of consultation and services rendered, which reports shall be signed and kept on file in the facility; and

h) recording observations and information pertinent to dietetic treatment in the resident's medical record;

i) input in care plan development.

27.4 Adequate space, equipment and supplies shall be provided for the efficient, safe and sanitary receiving, storage, refrigeration, preparation and service of food and other related aspects of the food service operation in accordance with reference 10.

27.5 Policies and procedures shall be established for the dietetic service, pertaining to but not limited to the following:

a) responsibilities and functions of personnel;

b) standards for nutritional care in accordance with reference 12;

c) alterations or modifications to diet orders or schedules;

d) food purchasing storage, preparation and service;

e) safety and sanitation relative to personnel and equipment in accordance with reference 10; and

f) ancillary dietary services, including food storage and preparation in satellite kitchens and vending operations in accordance with reference 10; and

g) a plan to include alternate methods and procedures for food preparation and service, including provisions for potable water, to be used in emergencies.
27.6 All facilities shall provide sufficient and adequately trained supportive personnel, competent to carry out the functions of the dietetic services.

a) The dietetic services shall have employees on duty over a period of 12 or more hours per day, seven days per week.

b) Those employees involved in direct preparation of food (as opposed to distribution of food, dishwashing, etc.) shall not be involved in resident care.

c) Housekeeping and nursing personnel may assist in food distribution, but not food preparation. Careful hand washing shall be done prior to assisting in food distribution.

27.7 The facility's food service operation shall comply with all appropriate standards of reference 10.

a) Diet kitchens, nourishment stations, and any other related areas shall be the responsibility of the dietetic service.

27.8 All menus including alternate choices shall be planned at least one week in advance, to meet the standards for nutritional care in accordance with reference 12 and to provide for a variety of foods, adjusted for seasonal changes, and reflecting the dietary preferences of residents.

a) Menus shall indicate nourishments offered to residents between evening meal and bedtime.

b) Menus shall be posted in a conspicuous place in the dietary department and in resident areas.

c) Records of menus actually served shall be retained for thirty (30) days.

27.9 All diets shall be ordered in writing by the attending physician.

a) All diets shall be planned, prepared and served to conform to the physician's orders and to meet the standards of reference 12 to the extent medically possible.

b) Diet orders shall be reviewed by the attending physician on same schedule as other physician orders.

27.10 There shall be a diet manual, approved by the dietitian and available to all dietetic and nursing services personnel. Diets served to residents shall comply with the principles set forth in the diet manual.

27.11 Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes based upon the individual preference of a resident or group of residents in a residential area and/or at regular times comparable to normal mealtimes in the community.

a) There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in (c) below.
b) The facility shall offer snacks at bedtime daily.

c) When a nourishing snack is provided at bedtime, up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident, or group of residents in a residential area agrees to this meal span, and a nourishing snack is served.

27.12 Foods shall be prepared by methods that conserve nutritive value, flavor and appearance, and shall be prepared and served at proper temperatures and in a form to meet individual needs. Food substitutes of similar nutritive value shall be offered when residents refuse foods served for good reason.

a) A file of tested recipes, adjusted to appropriate yield, shall be maintained and utilized corresponding to items on the menu.

b) House diets shall be appropriately seasoned.

c) There shall be a supply of staple foods for a minimum of seven (7) days and of perishable foods for a minimum of two days in the facility.

27.13 Food shall be attractively served on dinnerware of good quality, such as ceramic, plastic or other materials that are durable and aesthetically pleasing.

27.14 A dining room shall be available for those residents or residents who wish to participate in group dining in accordance with section 46.1 herein.

27.15 Self-help feeding devices shall be available to those residents who need them to maintain maximum independence in the activities of daily living.

27.16 A facility contracting for food service shall require as part of the contract, that the contractor comply with the provisions of the regulations herein.
SECTION 1400 - MEAL SERVICE

1401. General (II)

A. Facility meal service programs shall be inspected and approved by the Division of Health Licensing, and shall be regulated, inspected, and graded pursuant to R.61-25.

B. When meals are catered to a facility, such meals shall be obtained from a meal service establishment graded by the Department, pursuant to R.61-25. (I)

C. If food is prepared at a central kitchen and delivered to separate facilities or separate buildings and/or floors of the same facility, provisions shall be made for proper maintenance of food temperatures and a sanitary mode of transportation that are approved by the Division of Health Licensing.

D. Food shall be prepared by methods that conserve the nutritive value, flavor and appearance. The food shall be palatable, properly prepared, and sufficient in quantity and quality to meet the daily nutritional needs of the residents in accordance with written dietary policies and procedures.

E. Efforts shall be made to accommodate the religious, cultural, and ethnic preferences of each resident and consider variations of eating habits, unless the orders of a physician or other legally authorized healthcare provider contraindicate.

F. Nourishment stations, if provided, shall contain a hand washing sink equipped for hand washing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets.

G. At least one (1) dietary refrigerator shall be provided on each resident floor and shall have a thermometer accurate to plus or minus three (3) degrees Fahrenheit. In addition, if a refrigerator(s) is in a resident room for food storage, the same thermometer requirement applies.

H. Medications, nursing supplies, or biologicals shall not be stored in the dietary department or any refrigerator or storage area utilized by the dietary department.

I. The preparation of meals shall only be conducted in areas of the facility that have been approved by the Department. Extended operations of a facility’s meal service program shall not be located in rooms used for other purposes, e.g., sleeping, living, laundry.

1402. Food and Food Storage (II)

A. The storage, preparation, serving, transportation of food, and the sources from which food is obtained shall be in accordance with R.61-25.

B. Home canned food shall be prohibited.
C. At least a three-day supply of staple foods and a two-day supply of perishable foods shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu and special or therapeutic diets.

D. Food stored in refrigerators and freezers shall be covered, labeled, and dated. Prepared food shall not be stored in the refrigerator for more than three (3) days.

E. All food in the facility shall be from food sources approved or considered satisfactory by the Department, and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. (I)

F. Poisonous products that are used in the daily operation of the facility such as pressurized insecticides, lye, drain cleaners, ammonia, and other similar materials that are stored in food preparation areas, equipment-washing and utensil-washing areas, clean utensil storage areas, or food storage areas shall be inaccessible to residents and stored in closed cabinets or in approved designated areas. These products may be stored with detergents, sanitizers, and other cleaning compounds.

G. Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, or equipment, utensils, and containers are washed.

1403. Food Equipment and Utensils

A. The storage, cleaning and sanitizing of equipment and utensils utilized shall be in accordance with R.61-25. (II)

B. There shall be written procedures for cleaning, disinfecting and sanitizing all equipment and meal service work areas.

C. All walk-in refrigerators and freezers shall be equipped with opening devices that will permit opening of the door from the inside at all times. (I)

D. Single-service articles shall be used whenever the facility is unable to clean and sanitize utensils adequately and effectively. (II)

E. Drinking containers made of porous materials shall not be used unless the containers have smooth liners which can be easily cleaned. These containers and/or liners shall be sanitized at least weekly or more often as necessary and identified for individual resident use. Disposable containers shall be replaced at least weekly. (II)

1404. Meals and Services (II)

A. All facilities shall provide meal services to meet the daily nutritional needs of the residents in accordance with the dietary reference intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

B. The dining area shall provide a comfortable and relaxed environment. Table service shall be planned in an attractive and colorful manner for each meal.
C. A minimum of three (3) nutritionally-adequate meals in each twenty-four-hour (24-hour) period shall be provided for each resident unless otherwise directed by the resident’s physician or other legally authorized healthcare provider. Residents shall be allowed to choose between a variety of foods offered. Personal preferences as to the times residents receive their meals may be honored. This may include offering smaller, more frequent meals, or snacks, or postponing meals to honor a resident’s request, e.g., to sleep or not to eat. The condition of the resident shall dictate the manner in which meal service is adjusted to suit personal preferences. Meal service systems, e.g., four-meal plans and/or buffet dining, may be offered in order to facilitate the resident receiving a variety of foods.

D. Not more than fourteen (14) hours shall elapse between the scheduled serving of the evening meal and breakfast the following day. As an exception, there may be up to sixteen (16) hours between the scheduled serving of the evening meal and breakfast the following day if approved by the resident’s attending physician and the resident, and if a nourishing snack is provided after the evening meal.

E. Food shall be cut, chopped, ground or blended to meet individual needs.

F. Special attention shall be given to preparation and prompt serving in order to maintain correct food temperatures, in accordance with R.61-25, for serving at the table or resident room (tray service).

G. The same menu items shall not be repetitively served during each seven-day period except to honor specific, individual resident requests. Substitutes of similar nutritive value shall be offered to residents who refuse food served.

H. Food and snacks shall be available and offered between meals at no additional cost to the residents. Individual resident food and snack preferences shall be honored when reasonable.

1405. Meal Service Staff

A. The health and cleanliness of all those engaged in food preparation and serving shall be in accordance with R.61-25. (II)

B. The meal service operations shall be under the direction of a dietitian or qualified food service supervisor who shall be responsible for supervising the meal service staff, planning, preparation and serving of food and the maintenance of proper records. A staff member shall be designated, by name or position, to act in the absence of this person. (II)

C. A qualified food service supervisor shall be a person who: (II)

1. Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or

2. Is a graduate of a course of study meeting the requirements of the American Dietetic Association and approved by the state; or
3. Has at least three (3) years of training and experience in meal service supervision and management in a military service equivalent in content to the programs described in Sections 1405.C.1 and C.2.

D. A qualified food service supervisor shall receive consultation from a dietitian who is available on a full-time, part-time or consultant basis. (II)

E. There shall be a dietitian available to provide dietary review, menu planning, and consultation. If a dietitian is not a staff member of the facility, there shall be a valid contract for services between the facility and the dietitian. (II)

F. All meal service staff shall wear clean clothes, maintain personal cleanliness, and conform to hygienic practices while on duty. Shoes worn by meal service staff shall be closed-toed. Only authorized persons shall be allowed in the kitchen. (II)

G. Sufficient staff members shall be available to serve food and to provide individual attention and assistance, as needed. (II)

H. Individuals engaged in the preparation and service of food shall wear clean hair restraints, e.g., hair nets, hair wraps, hats, that will properly restrain all hair of the face and head and prevent contamination of food and food contact surfaces. (II)

I. There shall be trained staff members to supervise the preparation and serving of the proper diet to the residents including having sufficient knowledge of food values in order to make appropriate substitutions when necessary. (II)

J. Residents shall not be permitted to engage in food preparation unless the following criteria are met: (II)

1. The ICP of the resident has indicated food preparation as suitable and/or beneficial to the resident;

2. The resident is directly supervised by staff members, i.e., shall be in the food preparation area with the resident.

K. Meal service staff shall have the responsibility of accompanying the food to the floor, when necessary.

1406. Diets (II)

A. All diets shall be prescribed, dated and signed by the physician and be prepared in conformance with physicians’ orders giving consideration to individual resident preferences.

B. The necessary equipment for preparation of resident diets shall be available and utilized.

C. A diet manual published within the previous five (5) years shall be available and shall address at a minimum:
1. Food sources and food quality;

2. Food protection storage, preparation and service;

3. Meal service staff health and cleanliness;

4. Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences food serving recommendations;

5. Menu planning, including plans appropriate to special needs, e.g., diabetic, low-salt, low-cholesterol, or other diets appropriate for the elderly and/or infirm.

1407. Menus

A. Menus shall be planned and written at a minimum of four (4) weeks in advance and dated as served. The current week’s menu, including routine and special diets and any substitutions or changes made, shall be readily available. At least the current days menu shall be posted in one (1) or more conspicuous places in a public area. All substitutions made on the master menu shall be recorded in writing. Cycled menus shall be rotated so that the same weekly menu is not duplicated for at least a period of two (2) weeks.

B. Each menu shall be approved in writing by a dietitian before meals are prepared and served.

C. A file of tested recipes, adjusted to appropriate yield, shall correspond to items on the posted menus.

1408. Ice and Drinking Water (II)

A. Ice from a water system in accordance with R.61-58, shall be available and precautions taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside the ice container and allowed to air dry. The ice scoop and holding tray shall be sanitized daily.

B. Potable drinking water shall be available and accessible to residents at all times.

C. The use of common cups shall be prohibited.

D. Ice delivered to resident areas in bulk shall be in nonporous, covered containers that shall be cleaned after each use.

E. Drinking fountains of a sanitary angle jet design shall be properly regulated and maintained. There shall be no possibility of the mouth or nose becoming submerged. If drinking fountains are not provided, single service cups shall be used.

1409. Equipment

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained and stored in a way that does not contaminate food,
equipment, utensils or linens and shall be stored in an orderly manner within a separate space or closet.

1410. Refuse Storage and Disposal (II)

Refuse storage and disposal shall be in accordance with R.61-25

SOUTH DAKOTA

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44:04:01:01. Definitions

13) “Dietary manager,” a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides 120 or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the National Certifying Board of Dietary Managers and who functions with consultation from a dietitian;

(15) "Dining assistant," a person who has successfully completed a dining assistant program approved pursuant to § 44:04:07:17.

44:04:07:01. Dietetic standards for all facilities.

All facilities must comply with §§ 44:04:07:02 to 44:04:07:05, inclusive.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.


44:04:07:02. Dietetic services.

There must be an organized dietetic service that meets the daily nutritional needs of patients or residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with § 44:04:02:06.

**44:04:07:02.01. Food safety.**

The dietetic service must ensure that food is prepared and served in a manner that is safe and palatable. Hot food must be held at or above 140 degrees Fahrenheit (60 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods must be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device. Milk and milk products must be from a source approved by the state Department of Agriculture. Fluid milk must be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.


**44:04:07:02.02. Nutritional adequacy.**

The dietetic service must ensure that food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the Food Guide Pyramid, 1996, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.


**44:04:07:02.03. Food substitutions.**

Reasonable substitutions of equal nutritional value shall be offered to patients or residents who refuse or are unable to eat the food served.


**44:04:07:02.04. Food supply.**

An on-site supply of nonperishable foods adequate to meet the requirements of planned menus for three days must be maintained.


**44:04:07:02.05. Therapeutic diets.**

In licensed facilities the dietetic service must provide for the needs of those patients or residents requiring therapeutic diets.


Cross-Reference: Requirements for assisted living centers, § 44:04:04:12.01.

**44:04:07:02.06. Social needs.**

In nursing facilities and assisted living centers the dietetic service, in cooperation with other departments or services, must meet the social needs of the residents in the dining setting. Social needs include mutually compatible seating arrangements, pleasant dining atmosphere, encouragement of interactions between residents, and food service to all residents at a table at approximately the same time.


**44:04:07:03. Written dietetic policies.**
There must be written policies and procedures that govern all dietetic activities. Policies must include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. Policies and procedures must be reviewed yearly and revised as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.


Reference: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for $3.30 and Food Code, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for $45.

44:04:07:04. Written menus.

Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, must be written, prepared, and served as prescribed by each patient’s or resident’s physician. Each menu must be written at least one week in advance. Each planned menu must be approved, signed, and dated by the dietitian for all facilities except assisted living centers without therapeutic diet services. Any menu changes from month to month must be reviewed by the dietitian and each menu must be reviewed and approved by the dietitian at least annually where applicable. Each menu as served must meet the nutritional needs of the patients or residents in accordance with the physician’s orders and the Recommended Dietary Allowances of the National Research Council, Tenth Edition, 1989. Records of menus as served must be filed and retained for 30 days.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:08, 30 SDR 84, effective December 4, 2003.


44:04:07:05. Preparation of food.

Food must be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and must be attractively served at the temperature applicable to the particular food in a form to meet the individual patient’s or resident’s needs.
44:04:07:06. Additional dietetic standards for hospitals and nursing facilities.


Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004.


44:04:07:07. Director of dietetic services.

A full time dietary manager who is responsible to the administrator shall direct the dietetic services. Any dietary manager that has not completed a Dietary Manager’s course, approved by the Dietary Managers Association, must enroll in a course within 90 days of the hire date and complete the course within 18 months. The dietary manager and at least one cook must successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional’s Sanitation Course offered by the Dietary Managers Association, or successfully completed equivalent training as determined by the Health Department. The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each patient or resident are met. If the dietary manager is not a dietitian, the facility shall schedule dietitian consultations onsite at least monthly. The dietitian must approve all menus, assess the nutritional status of patients or residents with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits. Adequate staff whose working hours are scheduled to meet the dietetic needs of the patients or residents must be on duty daily over a period of 12 or more hours in nursing facilities or 10 or more hours in hospitals.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.


A current therapeutic diet manual with description of all diets served in the facility must be readily available in the facility to food service personnel, nursing service personnel, and practitioners.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.


At least three meals must be served daily at regular times with not more than a 14-hour span between a substantial evening meal and breakfast.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.


The facility must provide environmental and social accommodations for each patient or resident to encourage eating in the common dining area. Assistance must be provided for patients or residents in need of help in eating.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.


A registered dietitian shall ensure a nutritional assessment is completed on each new resident upon admission; any resident having a significant change in diet, eating ability, or nutritional status; monthly for any resident receiving tube feedings; and on any resident with a disease or condition that puts the resident at significant nutritional risk. A monthly tube feeding assessment must include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each resident.


44:04:07:15. Person-in-charge of dietary services in assisted living centers.
The person-in-charge of dietary services in assisted living centers shall possess a current certificate from a ServSafe Food Protection Course, the Certified Food Protection Professional’s Sanitation Course from the Dietary Managers Association, or equivalent training determined by the Health Department. Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.


The dietary manager or the dietitian in hospitals and nursing facilities, and the person-in-charge of dietary services or the dietitian in assisted living centers shall provide ongoing in service training for all dietary and food-handling employees. The person-in-charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing in service training for all dietary and food-handling employees. Topics shall include: food safety, hand washing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.


44:04:07:17. Nursing facility dining assistance program.

A nursing facility may develop a program to train dining assistants. The program must be approved by the department. To be approved by the department, the program must include instruction from a speech therapist and registered dietitian and consist of ten hours of training and clinical experience.


1200-8-6-.06 BASIC SERVICES.

...(9) Food and Dietetic Services.

(a) The nursing home must have organized dietary services that are directed and staffed by adequate qualified personnel. A facility may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this paragraph and provides for constant liaison with the facility medical staff for recommendations on dietetic policies affecting resident treatment. If an outside contract is utilized for management of its dietary services, the facility shall designate a full-time employee to be responsible for the overall management of the services.

(b) The nursing home must designate a person, either directly or by contractual agreement, to serve as the food and dietetic services director with responsibility for the daily management of the dietary services. The food and dietetic services director shall be:

1. A qualified dietitian; or,

2. A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or,

3. A graduate of a state-approved course that provided ninety (90) or more hours of classroom instruction in food service supervision and who has experience as a food service supervisor in a health care institution with consultation from a qualified dietitian.

(c) There must be a qualified dietitian, full time, part-time, or on a consultant basis, who is responsible for the development and implementation of a nutrition care process to meet the needs of residents for health maintenance, disease prevention and, when necessary, medical nutrition therapy to treat an illness, injury or condition. Medical nutrition therapy includes assessment of the nutritional status of the resident and treatment through diet therapy, counseling and/or use of specialized nutrition supplements.

(d) Menus must meet the needs of the residents.

1. Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the residents and must be prepared and served as prescribed.

2. Special diets shall be prepared and served as ordered.

3. Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.
4. A current therapeutic diet manual approved by the dietitian and medical staff must be readily available to all medical, nursing, and food service personnel.

(e) Education programs, including orientation, on-the-job training, in service education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

(f) A minimum of three (3) meals in each twenty-four (24) hour period shall be served. A supplemental night meal shall be served if more than fourteen (14) hours lapse between supper and breakfast. Additional nourishments shall be provided to patients with special dietary needs. A minimum of three (3) days supply of food shall be on hand.

(g) Menus shall be prepared at least one week in advance. A dietitian shall be consulted to help write and plan the menus. If any change in the actual food served is necessary, the change shall be made on the menu to designate the foods actually served to the residents. Menus of food served shall be kept on file for a thirty (30) day period.

(h) The dietitian or designee shall have a conference, dated on the medical chart, with each resident and/or family within two (2) weeks of admission to discuss the diet plan indicated by the physician. The resident's dietary preferences shall be recorded and utilized in planning his/her daily menu.

(i) Food shall be protected from dust, flies, rodents, unnecessary handling, droplet infection, overhead leakage and other sources of contamination whether in storage or while being prepared and served and/or transported through hallways.

(j) Perishable food shall not be allowed to stand at room temperature except during necessary periods of preparation or serving. Prepared foods shall be kept hot (140°F or above) or cold (45°F or less). Appropriate equipment for temperature maintenance, such as hot and cold serving units or insulated containers, shall be used.

(k) All nursing homes shall have commercial automatic dishwashers approved by the National Sanitation Foundation. Dishwashing machines shall be used according to manufacturer specifications.

(l) All dishes, glassware and utensils used in the preparation and serving of food and drink shall be cleaned and sanitized after each use.

(m) The cleaning and sanitizing of hand washed dishes shall be accomplished by using a three-compartment sink according to the current "U.S. Public Health Service Sanitation Manual".

(n) The kitchen shall contain sufficient refrigeration equipment and space for the storage of perishable foods.

(o) All refrigerators and freezers shall have thermometers. Refrigerators shall be kept at a temperature not to exceed 45°F. Freezers shall be kept at a temperature not to exceed 0°F.
(p) Written policies and procedures shall be followed concerning the scope of food services in accordance with the current edition of the “U.S. Public Health Service Recommended Ordinance and Code Regulating Eating and Drinking Establishments” and the current “U.S. Public Health Service Sanitation Manual” should be used as a guide to food sanitation.

TEXAS

Dining and Resident Activities

...c) Dining areas. Dining space must be provided to adequately serve needs of the residents and provide an efficient, sanitary, and pleasant environment for dining.

Source Note: The provisions of this §19.308 adopted to be effective July 1, 1996, 21 TexReg 4408.

Dietary Service

The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets daily nutritional and special dietary needs of each resident.

Source Note: The provisions of this §19.1101 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314.

RULE §19.1102 Staffing

The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

1) A qualified dietitian is one who is qualified based upon either:

A) registration by the Commission on Dietetic Registration of the American Dietetic Association; or

B) licensure, or provisional licensure, by the Texas State Board of Examiners of Dietitians. These individuals must have one year of supervisory experience in dietetic service of a health care facility.

2) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.
3) The designated director of food service is responsible for the overall operation of the dietary service. If the director is not a qualified dietitian, he must receive consultation from a qualified dietitian. The director of food service must participate in regular conferences with the administrator and with the registered nurse who has responsibility for the resident and the resident's plan of care. In conferences concerning the resident's plan of care, the director of food service must provide information about approaches to identified nutritional problems. The director of food service should make recommendations and assist in developing personnel policies.

4) The director of food service must be at least:

A) a qualified dietitian;

B) an associate-in-arts graduate in nutrition and food management (such as Dietetics, Home Economics, or Restaurant Management);

C) a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association, or the Dietary Manager's Association, whether conducted by correspondence or in a classroom;

D) a person who has completed a state-agency-approved 90-hour course in food service supervision; or

E) a person who has training and experience in food service supervision and management in a military service equivalent in content to the programs in subparagraphs (A)-(D) of this paragraph and has had his training credentials evaluated and approved by the nutrition program specialist of the Texas Department of Human Services' Long Term Care-Regulatory.

Source Note: The provisions of this §19.1102 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.1103 Sufficient Staffing

The facility must employ sufficient dietary support personnel who are competent to carry out the functions of the dietary service.

Source Note: The provisions of this §19.1103 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective May 1, 2004, 29 TexReg 3235

RULE §19.1104 Dietary Consultant Requirements

a) The facility must ensure a qualified dietitian is available as frequently and for such time as is necessary to assure each resident a diet that meets the daily nutritional and special dietary needs of each resident, based upon the acuity and clinical needs of the resident. The
facility must ensure that monthly dietary consultant hours are provided, at a minimum, as follows:

1) facility population: 60 residents or under - eight hours;
2) facility population: each additional 30 residents or fraction thereof - four hours.

b) To meet the consultant-hour requirement, time is accrued and counted exactly as rendered.

c) The qualified dietitian must be a part of the interdisciplinary team conducting assessment and care planning where indicated by the individual resident’s needs.

d) The facility must outline consultant services in a signed contract. This requirement does not apply to facilities which employ a qualified dietitian on their staff.

Source Note: The provisions of this §19.1104 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective December 1, 2000, 25 TexReg 11665

RULE §19.1107 Menus and Nutritional Adequacy

a) Menus must:

1) meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;
2) be prepared at least one week in advance;
3) be written for each type of diet ordered in the facility, in accordance with the facility’s diet manual;
4) be written or completely evaluated by the facility’s dietitian or consultant dietitian;
5) vary from week to week, taking the general age-group of residents into consideration; and
6) be followed. Any substitutions must be documented as required in subsection d) of this section.

b) A qualified dietitian may accept diet orders and changes from the physician.

c) The facility must ensure that a current diet manual, approved by the facility dietitian or the consultant dietitian, is readily available to dietary service personnel and the supervisor of nursing service. To be current, the diet manual must be no more than five years old.
d) The facility must retain records of menus served and food purchased for 30 days. A list of residents receiving special diets and a record of their diets must be kept in the dietary area for at least 30 days.

e) The facility must post the current week's menu:

1) in the dietary department, including therapeutic diet menus, so employees responsible for purchasing, preparing, and serving foods can use it; and

2) in a convenient location so the residents may see it.

f) The dietary department must keep a seven-day supply of staple foods and a two-day supply of perishable foods at all times. The facility is allowed the flexibility to use food on hand to make substitutions at any interval as long as comparable nutritional value is maintained. Any substitution of menu items must be recorded on the day of use. See also §19.1719(o)(1) of this title (relating to Other Rooms and Areas) for information concerning storage areas.

g) Accommodation of resident needs. The facility must provide:

1) table service for all who can and will eat at the table, including wheelchair residents;

2) firm supports, such as over-bed tables, for serving trays to bedfast residents;

3) sturdy tray stands of proper height to residents able to be out of bed for their meals;

4) special eating equipment and utensils for residents who need them; and

5) prompt assistance for residents who need help eating.

h) An identification system, such as tray cards, must be available to ensure that all diets are served in accordance with physician's orders.

Source Note: The provisions of this §19.1107 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.1108 Food

Each resident must receive and the facility must provide:

1) food prepared in accordance with established professional food preparation practices and by methods that conserve nutritive value, flavor, and appearance;

2) adequate amounts of food that is palatable, attractive, and at the proper temperature;

3) food prepared in a form designed to meet individual needs;

4) substitutes of similar nutritive value to residents who refuse food served; and

5) food that is prepared and served on schedule.
RULE §19.1109 Food Intake

Food intake of residents must be monitored and recorded as follows.

1) Deviations from normal food and fluid intake must be recorded in the clinical records. See also §19.1111(12)(B)(vi) of this title (relating to Contents of the Clinical Record) for information concerning dietary intake and clinical records.

2) In-between meals and bedtime snacks, and supplementary feedings, either as a part of the overall care plan or as ordered by a physician, including caloric-restricted diets, must be documented using the point, percentage, or other system consistently facility-wide. See also §19.1111(12)(B)(vi) of this title (relating to Contents of the Clinical Record) for information concerning dietary intake and clinical records.

Source Note: The provisions of this §19.1109 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective August 1, 2000, 25 TexReg 6779

RULE §19.1110 Frequency of Meals

a) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.

b) There must be not more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in subsection (d) of this section.

c) The facility must offer snacks at bedtime daily. Routine snacks that are not ordered by the physician and are not part of the plan of care do not need to be documented as accepted or rejected.

d) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day, if a resident group agrees to this meal span and a nourishing snack is served.

Source Note: The provisions of this §19.1110 adopted to be effective May 1, 1995, 20 TexReg 2393.

RULE §19.1111 Sanitary Conditions

a) The facility must:
1) procure food from sources approved or considered satisfactory by federal, state, and local authorities;

2) store, prepare, and serve food under sanitary conditions, as required by the Texas Department of Health food service sanitation requirements; and

3) dispose of garbage and refuse properly. See also §19.318(j)-(l) of this title (relating to Other Rooms and Areas) for information concerning dietary physical plant.

b) Dietary service personnel must be in good health and practice hygienic food-handling techniques. Persons with symptoms of communicable diseases or open, infected wounds may not work.

c) Dietary service personnel must wear clean, washable garments, wear hair coverings or clean caps, and have clean hands and fingernails.

d) Routine health examinations must meet all local, state, and federal codes for food service personnel.

Source Note: The provisions of this §19.1111 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective July 1, 2002, 27 TexReg 5245

**RULE §19.1113 Paid Feeding Assistants**

(a) State-approved training course. The facility may use a paid feeding assistant, if the paid feeding assistant has successfully completed a state-approved training course that meets the requirements of §19.1115 of this chapter (relating to Requirements for Training of Paid Feeding Assistants) before feeding residents. The facility must not use any individual working in the facility as a paid feeding assistant unless that individual has successfully completed the state-approved training course for paid feeding assistants.

(b) Supervision. A paid feeding assistant must work under the supervision of a registered nurse or a licensed vocational nurse. In an emergency, a paid feeding assistant must call a supervisory nurse for help. A paid feeding assistant can only feed residents in the dining room.

(c) Resident selection criteria.

(1) The facility must ensure that a paid feeding assistant only feed residents who have no complicated feeding problems, which include difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(2) The facility must base resident selection on the charge nurse’s assessment and the resident’s latest assessment and plan of care.

Source Note: The provisions of this §19.1113 adopted to be effective June 1, 2004, 29 TexReg 5416
RULE §19.1115 Requirements for Training of Paid Feeding Assistants

(a) Minimum training course contents. A state-approved training course for paid feeding assistants must include, at a minimum, 16 hours of training in the following:

(1) feeding techniques;
(2) assistance with feeding and hydration;
(3) communication and interpersonal skills;
(4) appropriate response to resident behavior;
(5) safety and emergency procedures, including the Heimlich maneuver;
(6) infection control;
(7) resident rights; and
(8) recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) Maintenance of records. The facility must maintain a record of all individuals used by the facility as paid feeding assistants who have successfully completed the state-approved training course for paid feeding assistants. At a minimum, documentation must include the date and location of the course, the name of the trainer, and a statement that the course was successfully completed.

(c) Repeat training. If paid feeding assistants seek employment at a facility other than the facility at which they were trained, they will not be required to repeat the state-approved training course if documentation of successful course completion, as outlined in subsection (b) of this section, is given to the hiring facility.

Source Note: The provisions of this §19.1115 adopted to be effective June 1, 2004, 29 TexReg 5416

RULE §19.318 Other Rooms and Areas

(k) Food storage areas.

(1) Food storage areas must provide for storage of a seven-day minimum supply of nonperishable staple foods and a two-day supply of perishable foods at all times.

(2) Shelves and pallets must be moveable wire, metal, or sealed lumber, and walls must be finished with a nonabsorbent finish to provide a cleanable surface.
(3) Dry food storage must have a venting system to provide for reliable positive air circulation.

(4) The maximum room temperature for food storage must not exceed 85 degrees Fahrenheit at all times. The measurement must be taken at the five-foot level.

(5) Foods must not be stored on the floor. Dunnage carts or pallets may be used to elevate foods not stored on shelving.

(6) Sealed containers must be provided for storing dry foods after the package seal has been broken.

(7) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

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1) The facility must provide each resident with a safe, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

2) There must be adequate staff employed by the facility to meet the dietary needs of the residents.

a) The facility must employ a dietitian either full-time, part-time, or on a consultant basis.

b) The dietitian must be certified in accordance with Title 58, Chapter 49, Dietitian Certification Act.

c) If a dietitian is not employed full-time, the administrator must designate a full-time person to serve as the dietetic supervisor.

d) If the dietetic supervisor is not a certified dietitian, the facility must document at least monthly consultation by a certified dietitian according to the needs of the residents.

e) The dietetic supervisor shall be available when the consulting dietitian visits the facility.
3) The facility must develop menus that meet the nutritional needs of residents to the extent medically possible.
   
a) Menus shall be:
   i) prepared in advance;
   ii) followed;
   iii) different each day;
   iv) posted for each day of the week;
   v) approved and signed by a certified dietician and;
   vi) cycled no less than every three weeks.
   
b) The facility must retain documentation for at least three months of all served substitutions to the menu.

4) The facility must make available for Department review all food sanitation inspection reports of State or local health department inspections.

5) The attending physician must prescribe in writing all therapeutic diets.

6) There must be no more than a 14-hour interval between the evening meal and breakfast, unless a substantial snack is served in the evening.

7) The facility must provide special eating equipment and assistive devices for residents who need them.

8) The facility's food service must comply with the Utah Department of Health Food Service Sanitation Regulations R392-100.

9) The facility must maintain a one-week supply of nonperishable staple foods and a three-day supply of perishable foods to complete the established menu for three meals per day, per resident.

10) A nursing care facility may use trained dining assistants to aid residents in eating and drinking if:
   
a) a licensed practical nurse-geriatric care manager, registered nurse, advance practice registered nurse, speech pathologist, occupational therapist, or dietitian has assessed that the resident does not have complicated feeding problems, such as recurrent lung aspirations, behaviors which interfere with eating, difficulty swallowing, or tube or parenteral feeding; and
   
b) The service plan or plan of care documents that the resident needs assistance with eating and drinking and defines who is qualified to offer the assistance.
11) If the nursing care facility uses a dining assistant, the facility must assure that the dining assistant:
   a) has completed a training course from a Department-approved training program;
   b) has completed a background screening pursuant to R432-35; and
   c) performs duties only for those residents who do not have complicated feeding problems.

12) A long-term care facility, employee organization, person, governmental entity, or private organization must submit the following to the Department to become Department-approved training program:
   a) a copy of the curriculum to be implemented that meets the requirements of subsection (13); and
   b) the names and credentials of the trainers.

13) The training course for the dining assistant shall provide eight hours of instruction and one hour of observation by the trainer to ensure competency. The course shall include the following topics:
   a) feeding techniques;
   b) assistance with eating and drinking;
   c) communication and interpersonal skills;
   d) safety and emergency procedures including the Heimlich maneuver;
   e) infection control;
   f) resident rights;
   g) recognizing resident changes inconsistent with their normal behavior and the importance in reporting those changes to the supervisory nurse;
   h) special diets;
   i) documentation of type and amount of food and hydration intake;
   j) appropriate response to resident behaviors, and
   k) use of adaptive equipment.

14) The training program shall issue a certificate of completion and maintain a list of the dining assistants. The certificate shall include the training program provider and provider's telephone number at which a long-term care facility may verify the training, and the dining assistant's name and address.

15) To provide dining assistant training in a Department-approved program, a trainer must hold a current valid license to practice as:
a) a registered nurse, advanced practice registered nurse or licensed practical nurse-geriatric care manager pursuant to Title 58, Chapter 31b;

b) a registered dietitian, pursuant to Title 58, Chapter 49;

c) a speech-language pathologist, pursuant to Title 58, Chapter 41; or

d) an occupational therapist, pursuant to Title 58, Chapter 42a.

16) The Department may suspend a training program if the program's courses do not meet the requirements of this rule.

17) The Department may suspend a training program operated by a nursing care facility if:

a) a federal or state survey reveals failure to comply with federal regulations or state rules regarding feeding or dining assistant programs;

b) the facility fails to provide sufficient, competent staff to respond to emergencies;

c) the Department sanctions the facility for any reason; or

d) the Department determines that the facility is in continuous or chronic non-compliance under state rule or that the facility has provided sub-standard quality of care under federal regulation.

R432-200-7. Administration and Organization. [small health care facilities]

...(8) Health Surveillance.

... (b) All dietary and other staff who handle food shall obtain a Food Handler's Permit from the local health department.

R432-200-22. Dietary Services. [small health care facilities]

(1) Organization.

(a) There shall be an organized dietary service that provides safe, appetizing, and nutritional food service to residents.

(b) The service shall be under the supervision of a qualified dietetic supervisor or consultant.

(c) If a facility contracts with an outside food management company, the company shall comply with all applicable requirements of these rules.

(2) See R432-150-24.
7.14 Dietary Services

The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(a) Staffing.

The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

(1) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

(2) A qualified dietitian is one who is qualified based upon either registration by the Commission on Dietetic Registration of the American Dietetic Association, or on the basis of education, training or experience in identification of dietary needs, planning and implementation of dietary programs.

(3) Sufficient staff. The facility must employ sufficient support personnel competent to carry out the functions of the dietary service.

(b) Menus and nutritional adequacy.

Menus must:

(1) meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(2) be prepared in advance; and

(3) be followed.

(c) Food. Each resident shall receive and the facility shall provide:

(1) food prepared by methods that conserve nutritive value, flavor and appearance;

(2) food that is palatable, attractive, and at the proper temperature;

(3) food prepared in a form designed to meet individual needs;

(4) substitutes offered of similar nutritive value to residents who refuse food served.
(d) Therapeutic diets. Therapeutic diets must be prescribed by the attending physician.

(e) Frequency of meals.

(1) Each resident shall receive and the facility shall provide at least three meals daily, at regular times comparable to normal mealtimes in the community.

(2) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (4) below.

(3) The facility must offer snacks at midday and bedtime daily.

(4) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.

(f) Assistive devices. The facility must provide special eating equipment and utensils for residents who need them.

(g) Sanitary conditions. The facility must:

(1) procure food from sources approved or considered satisfactory by Federal, State or local authorities;

(2) store, prepare, distribute and serve food under sanitary conditions; and

(3) dispose of garbage and refuse properly.

VIRGINIA


A. The dietary and food service operation shall meet all applicable sections of 12 VAC 5-421.

B. There shall be a food service manager, qualified as allowed in 12 VAC 5-421-60, responsible for the full-time management and supervision of the dietary service.

C. If the food service supervisor is not a dietitian qualified according to § 54.1-2731 of the Code of Virginia, the nursing facility shall have a written agreement for ongoing consultation from a registered dietitian who meets the qualifications of § 54.1-2731 of the Code to provide guidance to the food service supervisor on methods for maintaining the dietary service, planning of nutritionally balanced meals, and assessing the dietary needs of individual residents.

D. The dietitian’s duties shall include the following:
1. Developing all menus, including therapeutic diets prescribed by a resident's physician;

2. Developing, revising, and annually reviewing dietary policies, procedures and job descriptions;

3. Assisting in planning and conducting regularly scheduled in service training that includes, but is not limited to:
   a. Therapeutic diets;
   b. Food preparation requirements; and
   c. Principles of sanitation.

4. Visiting residents on a regular basis to discuss nutritional problems, depending upon their needs and level of care, and recommending appropriate solutions.

E. Menus shall meet the dietary allowances of the Food and Nutritional Board of the National Academy of Sciences, as adjusted for age, sex, and activity.

F. A copy of a diet manual containing acceptable practices and standards for nutrition must be kept current and on file in the dietary department.

G. Food service shall be staffed for not less than 12 hours during the day and evening. Duty schedules shall be retained for at least 30 days.

H. At least three meals, served at regular intervals, shall be provided daily to each resident, unless contraindicated as documented by the attending physician in the resident's clinical record.

I. A between meal snack of nutritional value shall be available upon request to each resident or in accordance with their plan of care.

J. Therapeutic diets shall be prepared and served as prescribed by the attending physician.

K. Visitors or employees assigned to other duties in the nursing facility shall not be allowed in the food preparation area during food preparation and resident meal service hours, except in cases of emergency.

L. Weekly menus, including therapeutic diets, substitutes, and copies of menus, as served, shall be retained on file for 12 months.

M. Disposable dinnerware or tableware shall be used only for emergencies, for infection control, as part of special activities, or as indicated in a resident's plan of care.
388-97-1100 Dietary services.

The nursing home must:

(1) Provide each resident with a nourishing, palatable, well-balanced diet that meets their daily nutritional and special dietary needs.

(2) Serve food in an attractive manner and at temperatures safe and acceptable to each resident.

(3) Ensure that food service is in compliance with chapter 246-215 WAC.

(4) Retain dated menus, dated records of foods received, a record of the number of meals served, and standardized recipes for at least three months for department review as necessary.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-1100, filed 9/24/08, effective 11/1/08.]

388-97-1120 Meal provision.

The nursing home must:

(1) Provide a minimum of three meals in each twenty-four period, at regular times similar to normal meal times in the community;

(2) Make fresh fruits and vegetables, in season, available to residents on a daily basis;

(3) Make reasonable efforts to:

(a) Accommodate individual mealtime preferences and portion sizes, as well as preferences for between meal and evening snacks when not medically contraindicated;

(b) Offer a late breakfast or an alternative to the regular breakfast for late risers; and

(c) Provide food consistent with the cultural and religious needs of the residents.

(4) Use input from residents and the resident council, if the nursing home has one, in meal planning, scheduling, and the meal selection process.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-1120, filed 9/24/08, effective 11/1/08.]

388-97-1140 Individual dietary needs.

The nursing home must:
(1) Encourage residents to continue eating independently;

(2) Provide effective adaptive utensils as needed to promote independence;

(3) Allow sufficient time for eating in a relaxed manner;

(4) Provide individualized assistance as needed;

(5) Provide table service, for all residents capable of eating at a table, in a dining area/room, located outside of the resident's room; and

(6) Offer a substitute of similar nutritive value when a resident refuses food served.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-971140, filed 9/24/08, effective 11/1/08.]

388-97-1160 Dietary personnel.

The nursing home must have sufficient support personnel capable of carrying out the functions of dietary services and must:

(1) Employ a qualified dietitian either full-time, part-time or on a consultant basis who must:

(a) Approve regular and therapeutic menus which meet the dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(b) Prepare dated menus for general and modified diets at least three weeks in advance;

(c) Provide services which include:

(i) Nutrition assessment;

(ii) Liaison with medical and nursing staff, and administrator;

(iii) In service training; and

(iv) Guidance to the director of food service, and food service staff.

(2) If a qualified dietitian is not employed full-time as the food service manager the nursing home must employ a food service manager to serve as the director of food service.

(3) The food service manager means:

(a) An individual who is a qualified dietitian; or

(b) An individual:
(i) Who has completed a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association/Dietary Manager Association; and

(ii) Receives regularly scheduled consultation from a qualified dietitian.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-971160, filed 9/24/08, effective 11/1/08.]

388-97-1180 Dietary menus.

The nursing home must:

(1) Ensure that menus are followed;

(2) Post the current dated general menu, including substitutes, in the food service area and in a place accessible and conspicuous to residents and visitors, in print the residents can read; and

(3) Note any changes to the regular menu on the posted menu.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-971180, filed 9/24/08, effective 11/1/08.]

388-97-1200 Diet orders.

The nursing home must:

(1) Ensure that residents' diets are provided as prescribed by the physician. Diet modifications, for texture only, may be used as an interim measure when ordered by a registered nurse; and

(2) Provide supplementary fluid and nourishment in accordance with each resident's needs as determined by the assessment process.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-971200, filed 9/24/08, effective 11/1/08.]

388-97-1220 Modified diets.

The nursing home must review a resident's modified diet to ensure that the food form and texture are consistent with the resident's current needs and functional level:

(1) At the request of the resident.

(2) When the resident's condition warrants.
388-97-1240 Tube feedings.

If the nursing home prepares tube feeding formula, or mixes additives to the prepared formula it must ensure that:

(1) Each resident's tube feedings are of uniform consistency and quality; and

(2) Tube feeding formulas are prepared, stored, distributed, and served in such a manner so as to maintain uniformity and to prevent contamination.

74.42.290 Meal intervals — Food handling — Utensils — Disposal.

(1) The facility shall serve at least three meals, or their equivalent, daily at regular times with not more than fourteen hours between a substantial evening meal and breakfast on the following day and not less than ten hours between breakfast and a substantial evening meal on the same day.

(2) Food shall be procured, stored, transported, and prepared under sanitary conditions in compliance with state and local regulations.

(3) Food of an appropriate quantity at an appropriate temperature shall be served in a form consistent with the needs of the resident;

(4) Special eating equipment and utensils shall be provided for residents who need them; and

(5) Food served and uneaten shall be discarded. [1979 ex.s.c 211 § 29.]

74.42.300 Nutritionist — Menus, special diets.

(1) The facility shall have a staff member trained or experienced in food management and nutrition responsible for planning menus that meet the requirements of subsection (2) of this section and supervising meal preparation and service to insure that the menu plan is followed.

(2) The menu plans shall follow the orders of the resident's physician.

(3) The facility shall:
(a) Meet the nutritional needs of each resident;
(b) Have menus written in advance;
(c) Provide a variety of foods at each meal;
(d) Provide daily and weekly variations in the menus; and
(e) Adjust the menus for seasonal changes.

(4) If the facility has residents who require medically prescribed special diets, the menus for those residents shall be planned by a professionally qualified dietitian or reviewed and approved by the attending physician. The preparation and serving of meals shall be supervised to insure that the resident accepts the special diet.

74.42.310 Staff duties at meals.
(1) A facility shall have sufficient personnel to supervise the residents, direct self-help dining skills, and to insure that each resident receives enough food.
(2) A facility shall provide table service for all residents, including residents in wheelchairs, who are capable and willing to eat at tables.

[1980 c 184 § 10; 1979 ex.s. c 211 § 31.]

74.42.320 Sanitary procedures for food preparation.
Facilities shall have effective sanitary procedures for the food preparation staff including procedures for cleaning food preparation equipment and food preparation areas.

[1979 ex.s. c 211 § 32.]

74.42.330 Food storage.
The facility shall store dry or staple food items at an appropriate height above the floor in a ventilated room not subject to sewage or waste water backflow or contamination by condensation, leakage, rodents or vermin. Perishable foods shall be stored at proper temperatures to conserve nutritive values.

[1979 ex.s. c 211 § 33.]

8.2.b.1.  Assistive devices. The nursing home shall provide special eating equipment and utensils for residents who need them.

8.2.b.2.  The nursing home shall evaluate residents having potential to benefit from the assistive devices to assure that the assistive devices meet the residents’ needs…

8.15.  Dietary Services.

8.15.a.  Dietary Staffing.

8.15.a.1.  Dietitian. A nursing home shall employ a qualified dietitian either full-time, part-time, or on a consultant basis.

8.15.a.1.A.  A qualified dietitian is one who is registered by the Commission on Dietetic Registration and licensed by the West Virginia Board of Licensed Dietitians; or

8.15.a.1.B.  Is qualified as defined by the West Virginia Board of Licensed Dietitians, and is licensed by that board to provide professional nutritional services in West Virginia.

8.15.a.1.C.  Consultation shall be based upon the residents’ needs and shall occur at intervals of no less than every thirty (30) days and for no less than eight (8) hours.

8.15.a.2.  A dietary manager shall be employed if a dietitian is not employed full-time and shall be one of the following:

8.15.a.2.A.  A dietetic technician, registered by the American Dietetic Association;

8.15.a.2.B.  A certified dietary manager, as certified by the Dietary Manager’s Association; or

8.15.a.2.C.  A graduate of an associate or baccalaureate degree program in foods and nutrition or food service management.

8.15.a.3.  The dietary manager, under the direction of the dietitian, is responsible for the daily operation of the dietetic service;

8.15.b.  Sufficient staff. A nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary service.

8.15.c.  Menus and Nutritional Adequacy.

8.15.c.1.  A nursing home shall meet the nutritional needs of residents in accordance with the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;
8.15.d. Food. A nursing home shall provide each resident with:

8.15.d.1. Food prepared by methods that conserve nutritive value, flavor, and appearance.

8.15.d.1.A. Meals shall be prepared and served the same day;

8.15.d.2. Food that is palatable, attractive, and at the proper temperature;

8.15.d.2.A. At the time of receipt by the resident, foods shall be at a temperature of no less than 120°F for hot foods and at no more than 50°F for cold foods;

8.15.d.3. Food prepared in a form designed to meet individual needs;

8.15.d.4. Food substitutes of similar nutritive value for food the resident refuses;

8.15.d.5. Food prepared with salt, unless contraindicated by a physician’s order; and

8.15.d.6. Iodized salt, if used.

8.15.e. Diets including regular diets. All residents shall have a physician’s order for the specific type of diet he or she is to receive as set forth in the nursing home’s diet manual.

8.15.e.1. Therapeutic and texture modified diets shall be served to residents in accordance with the physician’s orders.

8.15.e.2. Nursing personnel shall advise food service in writing of each resident’s diet order, and a copy of the order shall be kept on file for at least one (1) year.

8.15.e.3. Therapeutic Diets.

8.15.e.3.A. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual that is not more than five (5) years old and is approved by the dietitian shall be available for nursing personnel and physicians.

8.15.e.4. Recognizing that the resident has the right to refuse medical treatment, all residents have the right to request substitute foods even when this violates the physician’s orders.

8.15.e.4.1. A nursing home shall provide education to the resident regarding the benefits of the prescribed diet and consequences of his or her refusal to eat the prescribed diet.

8.15.e.4.2. A nursing home shall document the informed decision in the resident’s clinical record.

8.15.f. Frequency of meals.

8.15.f.1. A nursing home shall provide at least three (3) meals daily at regular times, or in accordance with residents’ preferences and customary routines.

8.15.f.2. No more than fourteen (14) hours shall elapse between a substantial evening meal and breakfast the following day.
8.15.f.2.A. Breakfast shall not be served before 7:00 A.M., unless by a resident’s request.

8.15.f.3. A nursing home shall offer a nourishing snack at bedtime daily, as determined by the residents needs.

8.15.f.3.A. The amount of the snacks consumed by the resident shall be recorded in the resident’s medical record.

8.15.g. Sanitary conditions. A nursing home shall:

8.15.g.1. Procure food from sources approved or considered satisfactory by Federal, State or local authorities;

8.15.g.2. Store, prepare, distribute, and serve food under sanitary conditions;

8.15.g.2.A. Hold hot foods above 140 F and cold foods at or below 40 F; and

8.15.g.3. Dispose of garbage and refuse properly.

8.15.h. Emergency supplies.

8.15.h.1. A nursing home shall have a planned three (3) day disaster menu that correlates with the emergency food supply.

8.15.h.2. The emergency food supply shall be maintained on the premises with non-perishable foods and disposable supplies to meet all resident needs for three (3) days.

8.15.h.3. The emergency food supply may be incorporated with the regular stock of food supplies

8.15.i. A nursing home shall maintain a dietetic service that is organized either directly by a nursing home or through a written agreement with a contractor who complies with the standards of this rule.

8.15.j. The dietetic service shall be in substantial compliance with the Division of Health rule, Food Establishments, 64CSR17.

WISCONSIN

HFS 132.63 Dietary service.

(1) DIETARY SERVICE. The facility shall provide each resident a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(2) STAFF.
(a) Dietitian. The nursing home shall employ or retain on a consultant basis a dietitian to plan, direct and ensure implementation of dietary service functions.

(b) Director of food services.

1. The nursing home shall designate a person to serve as the director of food services. A qualified director of food services is a person responsible for implementation of dietary service functions in the nursing home and who meets any of the following requirements:

   a. Is a dietitian.

   b. Has completed at least a course of study in food service management approved by the dietary managers association or an equivalent program.

   c. Holds an associate degree as a dietetic technician from a program approved by the American dietetics association.

2. If the director of food services is not a dietitian, the director of food services shall consult with a qualified dietitian on a frequent and regularly scheduled basis.

(c) Staffing.

The nursing home shall employ a sufficient number of dietary personnel competent to carry out the functions of the dietary service.

(3) HYGIENE OF STAFF. Dietary staff and other personnel who participate in dietary service shall be in good health and practice hygienic food handling techniques.

Note: For in service training requirements, see s. HFS 132.44 (2) (b).

(4) MENUS.

(a) General.

1. Menus shall be planned and written at least 2 weeks in advance of their use, and shall be adjusted for seasonal availability of foods.

2. Menus shall be in accordance with physicians’ orders and, to the extent medically possible, in accordance with the “recommended daily dietary allowances,” of the food and nutrition board of the national research council, national academy of sciences as contained in Appendix A of this chapter.

3. Food sufficient to meet the needs of each resident shall be planned, prepared and served for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value.

4. The facility shall make reasonable adjustments to accommodate each resident’s preferences, habits, customs, appetite, and physical condition.

5. A file of tested recipes shall be maintained.
6. A variety of protein foods, fruits, vegetables, dairy products, breads, and cereals shall be provided.

(b) Therapeutic diets.

1. Therapeutic diets shall be served only on order of the physician, and shall be consistent with such orders.

2. Therapeutic menus shall be planned as provided in par. (a) 1., with supervision or consultation from a qualified dietitian.

3. Vitamin and mineral supplements shall be given only on order of the physician.

(5) MEAL SERVICE.

(a) Schedule. At least 3 meals or their equivalent shall be offered to each resident daily, not more than 6 hours apart, with not more than a 15-hour span between a substantial evening meal and the following breakfast.

(b) Identification of trays. Trays, if used, shall be identified with the resident's name and type of diet.

(c) Table service. The facility shall provide table service in dining rooms for all residents who can and want to eat at a table, including residents in wheelchairs.

(d) Reservice. Food served to a resident in an unopened manufacturer's package may not be reserved unless the package remains unopened and maintained at a proper temperature.

(e) Temperature. Food shall be served at proper temperatures.

(f) Snacks. If not prohibited by the resident's diet or condition, nourishments shall be offered routinely to all residents between the evening meal and bedtime.

(g) Drinking water. When a resident is confined to bed, a covered pitcher of drinking water and a glass shall be provided on a bedside stand. The water shall be changed frequently during the day, and pitchers and glasses shall be sanitized daily. Single-service disposable pitchers and glasses may be used. Common drinking utensils shall not be used.

(6) FOOD SUPPLIES AND PREPARATION.

(a) Supplies. Food shall be purchased or procured from approved sources or sources meeting federal, state, and local standards or laws.

(b) Preparation. Food shall be cleaned and prepared by methods that conserve nutritive value, flavor and appearance. Food shall be cut, chopped, or ground as needed for individual residents.

(7) SANITATION.

(a) Equipment and utensils.
1. All equipment, appliances, and utensils used in preparation or serving of food shall be maintained in a functional, sanitary, and safe condition. Replacement equipment shall meet criteria established in “Listing of Food Service Equipment” by the national sanitation foundation.

2. The floors, walls, and ceilings of all rooms in which food or drink is stored or prepared or in which utensils are washed shall be kept clean, smooth, and in good repair.

3. All furnishings, table linens, drapes, and furniture shall be maintained in a clean and sanitary condition.

Note: Copies of the National Sanitation Foundation's “Listing of Food Service Equipment” are kept on file and may be consulted in the department and in the offices of the secretary of state and the revisor of statutes.

(b) Storage and handling of food.

1. Food shall be stored, prepared, distributed, and served under sanitary conditions which prevent contamination.

2. All readily perishable food and drink, except when being prepared or served, shall be kept in a refrigerator which shall have a temperature maintained at or below 40 F. (4 C).

Note: See ch. HFS 145 for the requirements for reporting incidents of suspected disease transmitted by food.

(c) Animals. Animals shall not be allowed where food is prepared, served or stored, or where utensils are washed or stored.

(8) DISHWASHING.

Whether washed by hand or mechanical means, all dishes, plates, cups, glasses, pots, pans, and utensils shall be cleaned in accordance with accepted procedures which shall include separate steps for pre-washing, washing, rinsing, and sanitizing by means of hot water or chemicals or a combination approved by the department.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; am. (2) (a), (4) (a) 3, (5) (d) and (f) and (7) (a) 4., Register, January, 1987, No. 373, eff. 2−1−87; r. and recr. (5) (c), Register, February, 1989, No. 398, eff. 3−1−89; CR 04−053: am. (1), r. and recr. (2), r. (6) (c) and (7) (a) 4. Register October 2004 No. 586, eff. 11−1−04.
Dietary Facilities. Food shall be stored, prepared, distributed, and served under proper sanitary conditions.

(i) Non-dietary personnel shall be excluded from the dietary area and the traffic pattern strictly controlled;

(ii) Employees shall not eat or use tobacco products in any food preparation area;

(iii) A written policy shall be developed and adhered to for the cleaning and sanitizing of all ice machines; and

(iv) Equipment and work areas shall be clean and orderly. Effective procedures for cleaning all equipment and work areas shall be followed consistently to safeguard residents’ health.

Section 11. Dietetic Services.

The facility shall provide dietetic services that meet the nutritional needs of residents according to the science of nutrition. The dietetic service shall operate with safe food handling practices from receipt through service in accordance with the most current edition of the FOOD CODE from the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.

(a) Dietary Supervision.

Overall supervisory responsibility for the dietetic service shall be assigned to a full-time qualified dietetic supervisor.

(i) If the qualified supervisor is not a Registered Dietitian, she/he shall be a graduate of a dietetic technician program approved by the American Dietetic Association or a dietary managers’ educational program approved by the Certifying Board for Dietary Managers. Training and experience in food service supervision and nutrition equivalent in content to the approved educational programs are acceptable.

(ii) Visits of the consultant dietitian shall be scheduled to assure that the professional dietetic service needs of the facility are met. These visits shall be:

(A) For at least eight (8) hours every other week, so that adequate time is allowed for observation of more than one (1) meal per visit; or,

(B) For at least four (4) hours every week so that adequate time is allowed to observe the preparation and serving of food at meal time. The weekly visits shall be scheduled to allow for observation of different meals.

(C) Visits shall not be limited to evenings and weekends only.

(iii) Reports of the consultant dietitian shall be made verbally and in writing to the Administrator or his/her designee. The reports shall be kept on file with notations made of actions taken by the facility. The report shall include dates, length of time on-site, functions performed and recommendations.
(iv) The consultant or staff dietitian shall develop written plans and conduct or supervise in service programs for dietary personnel on a monthly basis.

(v) The consultant or staff dietitian shall participate in the development of policies and procedures, as well as the development or approval of all menus.

(vi) The consultant dietitian is to provide assistance and advice, as needed, regarding the dietary department budget.

(vii) The consultant or staff dietitian shall maintain interdisciplinary communication and act as the dietetic service’s chief liaison to the medical and nursing staffs.

(viii) The dietetic supervisor shall be responsible for department orientation, training, scheduling, and work assignments for all dietetic service personnel.

(ix) The dietetic supervisor shall be responsible for menu planning, ordering or recommending the purchase of supplies, monitoring the department budget, controlling costs, maintaining associated records, etc.

(x) The dietetic supervisor shall be responsible for the development of policies and procedures. These polices shall be maintained in a manual and reviewed at least annually. Reviews and revisions shall be dated and signed by the supervisor and the consultant or staff dietitian.

(xi) If the dietetic supervisor also has responsibility for cooking, adequate time shall be allowed for supervisory management.

(b) Hygiene of Dietary Department. Food service personnel shall be in good health and shall practice safe food handling techniques in accordance with the current edition of FOOD CODE published by the U. S. Department of Health and Human Services, Public Health Services, Food and Drug Administration.

(i) Personnel having a communicable disease that can be expected to be transmitted through food shall not be permitted to work until the disease is no longer communicable or medical clearance is received from a physician or an advanced practitioner.

FEDERAL REQUIREMENTS

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§ 483.35  Dietary services.

The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.
(a) Staffing. The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

(1) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

(2) A qualified dietitian is one who is qualified based upon either registration by the Commission on Dietetic Registration of the American Dietetic Association, or on the basis of education, training, or experience in identification of dietary needs, planning, and implementation of dietary programs.

(b) Sufficient staff. The facility must employ sufficient support personnel competent to carry out the functions of the dietary service.

(c) Menus and nutritional adequacy. Menus must—

(1) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(2) Be prepared in advance; and

(3) Be followed.

(d) Food. Each resident receives and the facility provides—

(1) Food prepared by methods that conserve nutritive value, flavor, and appearance;

(2) Food that is palatable, attractive, and at the proper temperature;

(3) Food prepared in a form designed to meet individual needs; and

(4) Substitutes offered of similar nutritive value to residents who refuse food served.

(e) Therapeutic diets. Therapeutic diets must be prescribed by the attending physician.

(f) Frequency of meals.

(1) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.

(2) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (4) below.

(3) The facility must offer snacks at bedtime daily.

(4) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.
(g) Assistive devices. The facility must provide special eating equipment and utensils for residents who need them.

(h) Paid feeding assistants —

(1) State-approved training course. A facility may use a paid feeding assistant, as defined in §488.301 of this chapter, if—

(i) The feeding assistant has successfully completed a State-approved training course that meets the requirements of §483.160 before feeding residents; and

(ii) The use of feeding assistants is consistent with State law.

(2) Supervision.

(i) A feeding assistant must work under the supervision of a registered nurse (RN) or licensed practical nurse (LPN).

(ii) In an emergency, a feeding assistant must call a supervisory nurse for help on the resident call system.

(3) Resident selection criteria.

(i) A facility must ensure that a feeding assistant feeds only residents who have no complicated feeding problems.

(ii) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(iii) The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care.

(i) Sanitary conditions. The facility must—

(1) Procure food from sources approved or considered satisfactory by Federal, State, or local authorities;

(2) Store, prepare, distribute, and serve food under sanitary conditions; and

(3) Dispose of garbage and refuse properly.


§ 483.160   Requirements for training of paid feeding assistants.

(a) Minimum training course contents. A State-approved training course for paid feeding assistants must include, at a minimum, 8 hours of training in the following:

(1) Feeding techniques.
(2) Assistance with feeding and hydration.

(3) Communication and interpersonal skills.

(4) Appropriate responses to resident behavior.

(5) Safety and emergency procedures, including the Heimlich maneuver.

(6) Infection control.

(7) Resident rights.

(8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b) Maintenance of records. A facility must maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed the training course for paid feeding assistants.

[68 FR 55539, Sept. 26, 2003]