



July 27, 2021

Senators Susan Collins and Gary Peters
United States Senate
Washington, DC 20510

Dear Senators Collins and Peters:

On behalf of the American Nutrition Association (ANA), I write in support of and to thank you for introducing S 1536 to expand the availability of medical nutrition therapy (MNT) services under the Medicare program. At a time when improved health is more important than ever, this bill recognizes the need for increased access to MNT by qualified providers, such as Certified Nutrition Specialists[®].

However, the current bill text does not address existing limitations regarding the definition of nutrition professional. With additional amendments, as outlined below, this bill has the potential to better serve Medicare beneficiaries in need of MNT by ensuring an adequate pool of qualified nutrition practitioners are available to provide these important services.

Background

The ANA's Board for Certification of Nutrition SpecialistsSM (BCNSSM) is the foremost certifying body for advanced nutrition professionals. BCNS' Certified Nutrition Specialist[®] (CNS[®]) certificants earn an advanced degree in nutrition or clinical healthcare, complete a robust nutrition science curriculum, perform 1,000 hours of documented supervised nutrition practice experience, and pass BCNS' rigorous Certification Examination for Certified Nutrition Specialists.

The CNS certification is accredited by the National Commission for Certifying Agencies, the preeminent accrediting organization for certifying programs, which is the same accreditation held by the Registered Dietitian (RD) credential. The CNS certification is also listed by the US Department of Labor as an advanced nutrition credential in the definition of the "Dietitians and Nutritionists" profession in the Occupational Outlook Handbook of the Bureau of Labor and Statistics.¹

CNSs practice medical nutrition therapy and nutrition more broadly with patients and clients across the lifespan, working to restore or maintain optimal health. Because we know that nutrition is the single biggest determinant of health, Medicare beneficiaries suffering from the conditions named in the bill stand to see tremendous gains in health status as a result of increased access to MNT.

Definition of "Nutrition Professional"

While this bill would increase access to MNT by beneficiaries who have conditions beyond the limited diabetes and renal disease coverage currently available, it does not change the unnecessarily limiting definition of "nutrition professional," which may create barriers to access to providers who can actually deliver these services. Over two-thirds of CNSs practice in health clinics or private practice, treating

¹ <https://www.bls.gov/ooh/Healthcare/Dietitians-and-nutritionists.htm#tab-4>.

individual clients in their homes, offices, or via telehealth, and are widely accessible to members of their community.² Conversely, only a quarter of registered dietitians work outside of institutional settings, creating fewer direct access points for Medicare beneficiaries to seek out their care.³

Regarding the types of nutrition professionals that a Medicare patient can receive nutrition counseling from, 42 USC § 1395x(vv)(2)(A) could be interpreted to mean that a nutrition professional's degree must be programmatically accredited, in addition to regionally accredited. There are many high-quality nutrition practitioners holding regionally accredited degrees in nutrition that are not programmatically accredited. This includes individuals like CNSs who hold a master's or higher-level degree in nutrition whose degree was not concurrently programmatically accredited. Programmatic accreditation in the dietetics and nutrition field has, until recently, only been available to registered dietitians. Only within the last several years has an additional programmatic accreditation body for nutrition professionals been formed, and because it is in its early stages, most master's or above level nutrition programs have not yet gone through the accreditation process.⁴ This leaves it unclear whether thousands of highly-qualified nutrition professionals, with regionally accredited nutrition degrees, robust supervised practice experience, and completion of a rigorous NCCA-accredited certification examination, are eligible to serve Medicare beneficiaries. We therefore suggest that this section be amended to clarify that nutrition professionals are eligible if they hold a dietetics or nutrition certification that is accredited by the National Commission for Certifying Agencies.

42 USC § 1395x(vv)(2)(B) dictates that a nutrition professional must have completed at least 900 hours of supervised "dietetics" practice. This term has typically been interpreted to include "nutrition" practice, which is clearly in line with the legislative intent to recognize both dietitians and nutritionists, and accordingly the overlapping fields of both dietetics and nutrition. However, given that adjustments to this law are being made, we suggest clarifying language in this part.

Finally, 42 USC §1395x(vv)(2)(C) requires that an individual hold a state license or state certification if the state does "provide for such licensure or certification." Nationally, state regulation of the dietetics and nutrition profession across the states features sweeping and notable restrictions and variations by state due to a legacy of outdated state laws.⁵ Fewer than half of the states require a license to practice medical nutrition therapy. The majority of the remaining states offer an optional license to provide nutrition services, though many states make this license available only to those holding the registered dietitian credential, not to other qualified nutrition professionals. In these states, CNSs are legally permitted to provide medical nutrition therapy but are not eligible to obtain state licensure, and therefore may not squarely meet the current requirements of the statute for serving Medicare clients. Accordingly, we suggest refining this provision so that Medicare requires the registered dietitian or nutrition professional hold state licensure or state certification only where such licensure or certification is required for the practice of medical nutrition therapy.

² Board for Certification of Nutrition Specialists 2018 Certified Nutrition Specialists' Jobs Analysis Survey.

³ [https://jandonline.org/article/S2212-2672\(17\)31844-0/fulltext](https://jandonline.org/article/S2212-2672(17)31844-0/fulltext).

⁴ <https://acnpe.org/>.

⁵ <https://theana.org/advocate>.

To address these issues, our suggested changes to 42 USC §1395x(vv)(2) and (3) are reflected below, with stricken language in ~~red strike-through text~~, and suggested additional language in green underline.

(2) Subject to paragraph (3), the term "registered dietitian or nutrition professional" means an individual who—

(A) either

(i) holds a baccalaureate or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics that is ~~as~~ accredited by an appropriate national accreditation organization recognized by the Secretary for this purpose; and ~~(B)~~ has completed at least 900 hours of supervised dietetics or nutrition practice under the supervision of a registered dietitian or nutrition professional; ~~and or~~

(ii) holds a dietetics or nutrition certification that is accredited by the National Commission for Certifying Agencies or another appropriate national accreditation organization for certifications recognized by the Secretary for this purpose; and

~~(C)(B)(i)~~ is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed if the State requires such licensure or certification for the practice of medical nutrition therapy, as defined in paragraph (1); or (ii) in the case of an individual in a State that does not provide for such licensure or certification, meets such other criteria as the Secretary establishes.

(3) Subparagraphs (A) ~~and (B)~~ of paragraph (2) shall not apply in the case of an individual who, as of December 21, 2000, is licensed or certified as a dietitian or nutrition professional by the State in which medical nutrition therapy services are performed.

Addressing Pain Management through Nutrition

While the bill addresses many conditions, it does not specifically provide a pathway for Medicare to cover nutrition counseling for individuals with chronic pain.⁶ Research has shown that nutrition is a powerful tool in reducing inflammation, a very frequent source of chronic pain. Results from an 8-week Veterans Affairs' multimodal pain management program, a program that included nutrition and diet advice, demonstrated significant reductions in pain scores as well as emergency room and urgent care visits.⁷ Given that America remains in the midst of a crisis where millions of Americans are dependent on addictive opioids,⁸ we believe that nutrition can be a powerful tool in the fight against this epidemic.

We suggested the following addition to §1395x(vv)(4) reflected below, with stricken language in ~~red strike-through text~~, and suggested additional language in green underline.

(4) For purposes of paragraph (1), the diseases and conditions specified in this paragraph are the following:

(A) Diabetes and prediabetes.

⁶ http://www.tuesdayminutes.com/Vasquez_Pain%20%20Inflam_2006_Alleviation_Of_Pain.pdf.

⁷ <https://doi.org/10.1007/s11916-019-0790-0>.

⁸ <https://www.hhs.gov/opioids/about-the-epidemic/index.html>.

- (B) A renal disease.
- (C) Obesity (as defined for purposes of subsection (yy)(2)(C) or as otherwise defined by the Secretary).
- (D) Hypertension.
- (E) Dyslipidemia.
- (F) Malnutrition.
- (G) Eating disorders.
- (H) Cancer.
- (I) Gastrointestinal diseases, including Celiac disease.
- (J) HIV.
- (K) AIDS.
- (L) Cardiovascular disease.
- (M) Chronic pain.
- ~~(N)~~ Any other disease or condition— ...

Conclusion

Thank you again for introducing this valuable legislation. We stand ready to assist you in carrying out the bill's goals and will follow up with your staff regarding our suggestions for improving the bill.

Sincerely,



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