

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

HON: H.W. FUNDERBURK, Jr. ALJ

APPELLATE CASE NO: 2020-000055

RECEIVED

JAN 29 2020

SC Court of Appeals

FRANKLIN BENJAMIN, , APPELLANT,

v.

S.C. DEPT. CORR., , RESPONDENT.

RECORD OF APPEAL

FRANKLIN BENJAMIN
990 WISACKY HWY.
BISHOPVILL, E SC 29010
APPELLANT

DAVID TARTASKI
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RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENT PAGE DESCRIPTION OF RECORDS/DOC.S.....ii
ALJ ORDER OF DISMISSAL **DAEED**: JANUARY 2, 2020.....1-2
APPELLANT'S EXHIBIT: COPY OF MEDICINE PRESCRIPTION.....3
U.S. DIST. CT NY V. S. WILLIAM V. T.A. COUGHLIN , ie a1...4
SEE KEYS 1482, 1532, 1533.
SC PRESIDENT CASE LAWS SUPPORTING APPELLANT'S APPEAL, 5,6,7
APPELLANT'S DOCUMENT EXHIBITS (6)..PHY. ACTS.....8
APPELLANT'S DOC. EXHIBITS (5).....HEALTH PHY ACT.....9
APPELLANT'S DOC. EXHIBITS (6)... AMER. GUIDE. BK.....10
PROOF OF SERVICES.....11

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Franklin Benjamin, #245407,)
Appellant,)
vs.)
South Carolina Department of Corrections,)
Respondent.)

Docket No. 19-ALJ-04-0623-AP
Grievance No.: LCI-0832-19

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed December 6, 2019, by Franklin Benjamin (Appellant), an inmate in the custody of the South Carolina Department of Corrections (SCDC).

On October 8, 2019, Appellant filed a Step 1 Grievance complaining that his diet does not meet the dietary standards established by "USDA MyPlate" because it lacks the appropriate amount of daily protein, fruit, and whole grains. He requested that SCDC adjust his diet to meet the standards established by "USDA MyPlate". In denying Appellant's Step 1 Grievance, the Warden advised that he contacted the appropriate staff, reviewed pertinent documentation and was advised that the "USDA MyPlate" plan is only for inmates ages eighteen (18) through twenty-one (21). He further cited SCDC Policy ADM-16.05, Food Service Operations, and advised that "... [SCDC] will, therefore, ensure that the food served to inmates is in keeping with all applicable state and federal statutes, DHEC Regulations, and the 'Recommended Daily Allowances' as defined by the National Academy of Sciences, National Research Council."

On October 21, 2019, Appellant filed a Step 2 Grievance disputing that his diet complies with standards of the National Academy of Sciences, National Research Council and realleging that his diet should be adjusted to meet the standards of "USDA MyPlate". The Responsible Official denied Appellant's Step 2 Grievance on the same grounds that the Step 1 Grievance was denied.

There is no relief available to Appellant within the scope of this Court's authority. The ALC cannot and should not extend its jurisdiction over an internal prison matter. *See Al-Shubazz v. State*, 338 S.C. 354, 382, 527 S.E. 2d 742, 757 (2000) (citing *Pruitt v. State*, 274 S.C. 565, 567-68, 266 S.E.2d 779, 780 (1980)) and *Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2012).

FILED

JAN 02 2021

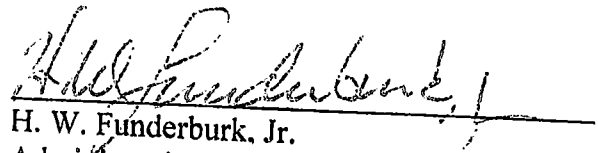
Under *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E. 2d 506, 508 (2004), the ALC is to have jurisdiction of all properly perfected inmate appeals but “[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state created liberty or property interest.” This is an internal prison matter involving SCDC medical policy and does not involve the denial of a liberty or property interest.

It is therefore,

ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

Columbia, South Carolina
January 2, 2020


H. W. Funderburk, Jr.
Administrative Law Judge

Incl January 2020
Elizabeth H. Funderburk

FILED

JAN 02 2020

SC ADMIN. LAW COURT

KIRKLAND PHARMACY - KCI
4542 BROAD RIVER RD COLUMBIA, 29210
2537568 D. PHILLIPS 6/13/2019
BENJAMIN, FRANKLIN 00245407
LEE F42105B
TAKE 1 TABLET BY ORAL ROUTE EVERY
DAY

CHLORTHALIDONE 25MG TAB
RISING PHAR Substituted For HYGROTON

(2) Refills 9/4/2019 JV EXP 12/9/2019
CAUTION: Federal State law prohibits transfer of this drug
to any person other than patient for whom prescribed.

NDC: 64980-0303-10
#30

KIRKLAND PHARMACY - KCI
4542 BROAD RIVER RD COLUMBIA, 29210
2536653 D. PHILLIPS 1/9/2020
BENJAMIN, FRANKLIN 00245407
LEE 0551 F4 2105 B
TAKE 1 TABLET BY ORAL ROUTE EVERY
DAY

CHLORTHALIDONE 25MG TAB
DR. PHILLIPS Substituted For HYGROTON

EXP 07 2020

NDC: 64980-0719-10

875 F.Supp. 1004
 (Cite as: 875 F.Supp. 1004)

*In Re: Humane
 Conditions of Confinement*

C

United States District Court,
 W.D. New York.

Sean WILLIAMS, Plaintiff,

v.

Thomas A. COUGHLIN III, Donald Selsky, R.J.
 McClellan, M.L. Hollins, Burge,
 R.C. Morse, Townley, P. Davis, R. Murphy, L. Joyce,
 All sued individually and
 in their official capacities for violations of Plaintiff's
 Constitutional
 Rights, Defendants.

No. 92-CV-523C.

Jan. 30, 1995.

Prison inmate sued prison and officials under § 1983 for violation of Eighth Amendment as result of deprivation of food for five days as punishment for disciplinary infraction in form of refusal to return food trays. The District Court, Curtin, J., held that there were genuine issues of material fact, precluding summary judgment for either prisoner or prison officials, as to whether deprivation of five consecutive meals over period of two days was "sufficiently serious" to support claim of Eighth Amendment violation.

Motions for summary judgment granted in part and denied in part.

West Headnotes

[1] Sentencing and Punishment 1439
350Hk1439 Most Cited Cases
 (Formerly 110k1213.8(1))

[1] Sentencing and Punishment 1482
350Hk1482 Most Cited Cases
 (Formerly 110k1213.8(1))

Under Eighth Amendment, prisoners are protected from cruel and unusual punishments, including those that involve unnecessary and wanton infliction of pain, and are protected from grossly disproportionate penalties. U.S.C.A. Const.Amend. 8.

[2] Sentencing and Punishment 1532
350Hk1532 Most Cited Cases
 (Formerly 110k1213.10(1))

Under Eighth Amendment, prison officials must ensure that inmates receive adequate food, clothing, shelter and medical care and must take reasonable measures to guarantee safety of inmates. U.S.C.A. Const.Amend. 8.

[3] Sentencing and Punishment 1533
350Hk1533 Most Cited Cases
 (Formerly 110k1213.10(1))

To violate Eighth Amendment prohibitions against cruel and unusual punishment, prison official must have sufficiently culpable state of mind, which is one of "deliberate indifference" to inmate health and safety. U.S.C.A. Const.Amend. 8.

[4] Sentencing and Punishment 1533
350Hk1533 Most Cited Cases
 (Formerly 110k1213.10(1))

[4] Sentencing and Punishment 1540
350Hk1540 Most Cited Cases
 (Formerly 110k1213.10(3))

Prison official cannot be found liable under Eighth Amendment for denying inmate humane conditions of confinement unless official knows of and disregards excessive risk to inmate health and safety. U.S.C.A. Const.Amend. 8.

[5] Federal Civil Procedure 2491.5
170Ak2491.5 Most Cited Cases

There were genuine issues of material fact, precluding summary judgment for prison and officials in prisoner's civil rights action, as to whether prison policy at time at issue was that inmate's failure to comply with requirement of returning food containers to staff after meal would be viewed as refusal to accept food.

[6] Prisons 4(2.1)
310k4(2.1) Most Cited Cases

Courts may use correctional guidelines and standards

1994. Contributory negligence is not
cause to reckless and willful conduct.—Orange-
Sausage Co. v. Cincinnati Ins. Co., 450 S.E.2d
316 S.C. 331, rehearing denied, certiorari de-
116 S.Ct. 331, 133 L.Ed.2d 231, rehearing
116 S.Ct. 684, 133 L.Ed.2d 531.

**101. Effect of difference in degree or prepon-
derance of negligence.**

1997. Under "less than or equal to"
tion of comparative negligence adopted in state,
plaintiff may recover damages if his or her negli-
gence is less than or equal to that of defendant;
if another way, plaintiff may recover only if his
negligence does not exceed that of defendant.—
Benport v. Cotton Hope Plantation Horizontal
Serv. Rec. Co., 482 S.E.2d 569, rehearing de-

signed and supervised construction of water treat-
ment facility for city, and engineer was entitled to
judgment as matter of law, where voids in concrete
wall which occurred as result of alleged negligence
were latent defects which could be discovered only
through destructive tests, engineer reported and
corrected defects it could see during construction,
and there was no specific testimony by expert as to
what engineer's resident inspector should have
seen during construction in exercise of due care.—
Id.

**134(7). Knowledge by defendant of defect or
danger.**

1992. Evidence established manufactur-
er's actual or constructive knowledge that chemical
reclamation contractor's work involved abnormally
dangerous activity of reclaiming manufacturer's
hazardous chemicals, and, thus, manufacturer
could be found to have engaged in disposal of
hazardous chemicals and to be strictly liable under
South Carolina law to owners of land adjacent to
site of reclamation plan; manufacturer knowingly
delivered rusty, aging, and leaking barrels to recla-
mation contractor.—Shockley v. Hoechst Celanese
Corp., 793 F.Supp. 670, affirmed in part, reversed
in part 996 F.2d 1212.

134(11). Proximate cause of injury.

1995. Under South Carolina law, where
medical causal relation issue is not one within
common knowledge of layman, proximate cause
cannot be determined in negligence suit without
expert medical testimony.—Goewey v. U.S., 886
F.Supp. 1268, affirmed 106 F.3d 390.

Where expert testimony is relied upon in negli-
gence suit to link physical injury to causation,
witnesses' testimonies may not contradict each
other on essential points; fact finder should not be
required to guess between contradictory conclu-
sions.—Id.

Scientifically unreliable evidence, which in itself
was contradictory, could not overcome conclusion
that neurological condition of infant exposed to
roof sealant was one ascribed as etiology unknown,
as numerous treating physicians had concluded,
and plaintiffs therefore failed to carry burden of
proof on causation in negligence action against
contractor which applied roof sealant.—Id.

1996. Issue of proximate cause may
be resolved by direct or circumstantial evidence.—
Minnon v. Hartley, 477 S.E.2d 715.

1994. Gross negligence ordinarily presents
mixed question of law and fact, but when evidence
supports but one reasonable inference, question
becomes matter of law for the court.—Clyburn v.
Sumter County School Dist. No. 17, 451 S.E.2d
885, 317 S.C. 50.

1993. It is always for jury to determine
whether party has been reckless, willful, and wan-
ton; however, it is not obligatory as matter of law
for jury to make such finding in every case of
statutory violation.—Wise v. Broadway, 433 S.E.2d
857, 315 S.C. 273, rehearing denied.

1996. Application of sudden peril doc-
trine is ordinarily issue for jury to decide under
particular facts of each case.—Dalon v. Golden
Lanes, Inc., 466 S.E.2d 368, 320 S.C. 534.

1994. Issue of negligence is mixed
question of law and fact; court must first deter-
mine whether duty arises in one party to exercise
reasonable care for benefit of another under facts
of given case; existence and scope of duty are
questions of law; thereafter jury determines wheth-
er breach of duty has occurred, resulting in dam-
ages.—Miller v. City of Camden, 451 S.E.2d 401,
317 S.C. 28, rehearing denied.

1994. Duty imposed by law is question
solely for court.—Ellis by Ellis v. Niles, 450 S.E.2d
631, 316 S.C. 516, rehearing denied, opinion vacat-
ed 479 S.E.2d 47.

1994. Breach of duty of due care is
ordinarily question of fact.—Singletary v. South
Carolina Dept. of Educ., 447 S.E.2d 231, 316 S.C.
153, rehearing denied.

Question of whether sudden emergency existed is
normally question for jury, but becomes question
for court where facts show no actionable negli-
gence on part of defendant.—Id.

1994. Generally, determination of
whether statute has been violated, for purposes of
negligence action, is question of fact for jury.—
Nguyen v. Uniflex Corp., 440 S.E.2d 887, 312 S.C.
417, rehearing denied.

risk are ordinarily questions of law.—
South Carolina Dept. of Highways and Public
Transp., 428 S.E.2d 595, 311 S.C. 349.

1992. Whether defendant provided
reasonably safe premises is question for jury in slip
and fall case.—Pinckney v. Winn-Dixie Stores, Inc.,
426 S.E.2d 327, 311 S.C. 1, rehearing denied, and
certiorari denied.

In slip and fall case, jury question was presented
as to whether store manager created dangerous
situation by which poinsettia leaves were placed in
aisle and proximately caused injury.—Id.

1992. Question of whether storekeep-
er was negligent and responsible for customer's
slipping and falling was for jury.—Lancy v. B-L
Inc., 419 S.E.2d 809, 309 S.C. 37.

1992. Question of whether sudden
emergency existed is normally question for jury,
but becomes question for court where facts show
no actionable negligence on part of defendant.—
Alston v. Blue Ridge Transfer Co., 417 S.E.2d 631,
308 S.C. 292, certiorari denied, and rehearing
denied.

III. CONTRIBUTORY NEGLIGENCE.

(A) PERSONS INJURED IN GENERAL.

Research Notes

Contributory negligence, see *Blashfield, Automobile
Law and Practice.*

Primary references

C.J.S. Negligence § 116, et seq.

**5. Nature and elements of contributory
negligence in general.**

1992. "Contributory negligence" is
of ordinary care on part of person injured by
negligence of another which combines and concurs
with the other's negligence and contributes to the
injury as proximate cause without which injury
would not have occurred.—Gruber v. Santee Fro-
zen Foods, Inc., 419 S.E.2d 795, 309 S.C. 13,
certiorari denied.

Contributory negligence doctrine embodies prin-
ciple that injured person should not be permitted
to recover from others greater care than he himself
exercises for his own welfare; if in exercise of
ordinary care plaintiff might have avoided conse-
quences of defendant's negligence, he is author of
his own injury in eyes of law.—Id.

1991. Contributory negligence, when
applicable, is lack of ordinary care on part of
person injured by negligence of another which
combines and concurs with that other's negligence
and contributes to injury as proximate cause with-
out which injury would not have occurred; doc-
trine of contributory negligence embodies principle
that injured person should not be permitted to ask
of others greater care than he himself exercises
for his own welfare.—Mishoe v. DNP Amusement,
414 S.E.2d 584, 307 S.C. 251, rehearing
denied, and certiorari denied.

6(1). In general.

1992. If plaintiff has knowledge of
dangerous condition or situation and voluntarily
enters into that dangerous situation, he is as a
matter of law contributorily negligent.—Gruber v.
Santee Frozen Foods, Inc., 419 S.E.2d 795, 309
S.C. 13, certiorari denied.

1991. If plaintiff has knowledge of
dangerous situation or condition and voluntarily
enters into that dangerous situation, he is as a matter
of law contributorily negligent.—Mishoe v. DNP
Amusement, Inc., 414 S.E.2d 584, 307 S.C. 251,
rehearing denied, and certiorari denied.

6(1). Negligence of defendant in general.

1993. Where professional negligence is al-
leged, expert testimony will usually be necessary to
establish both standard of care and defendant's
breach thereof, unless subject matter is within
orbit of common knowledge and experience, so
that no special learning is needed to evaluate
conduct of defendant.—Hoeffner v. The Citadel,
450 S.E.2d 190, 311 S.C. 361, rehearing denied.

1994. Where professional negligence
is alleged, expert testimony is usually necessary to
establish both standard of care and professional's
breach from that standard, unless subject matter
falls within area of common knowledge and experi-
ence of layman so that no special learning is
needed to evaluate professional's conduct.—City of
Spartanburg v. Turner-Murphy Co., Inc., 452 S.E.2d 615,
312 S.C. 194, rehearing denied.

Application of common knowledge exception to
requirement that plaintiff in professional negli-
gence action must present expert testimony to
establish standard of care and professional's devia-
tion from standard depends on facts of each case.

D.S.C. 1994. Initial inquiry in any negligence case is whether defendant owed to plaintiff any "legal duty of care" to protect, which is that which law requires to be done or forbore with respect to particular individual or public at large.—Epps v. U.S., 862 F.Supp. 1460.

In general, there is no common law duty to act, and, thus, duty for purposes of negligence claim normally arises by statute, contract relationship, status property interest, or other special circumstances.—Id.

S.C. 1997. In negligence action, if there is no duty on behalf of defendant, then defendant is entitled to directed verdict.—Carson v. Adgar, 486 S.E.2d 3.

Affirmative legal duty to act exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance.—Id.

Common law ordinarily imposes no duty on person to act; however, where act is voluntarily undertaken, actor assumes duty to use due care.—Id.

To establish that defendant has taken charge of one who is helpless for purposes of showing duty to act, plaintiff must show defendant did more than act, but through affirmative action assumed obligation or intended to render services for benefit of another. Restatement (Second) of Torts § 324 comment.—Id.

S.C. 1997. Essential element in negligence cause of action is existence of legal duty owed by defendant to plaintiff; without such duty, there can be no actionable negligence.—Wyatt v. Fowler, 484 S.E.2d 590.

Generally, there is no common-law duty to act; however, affirmative legal duty may be created by statute, contract, status, property interest, or some other special circumstance.—Id.

S.C. 1996. If there is no duty, then defendant in negligence action is entitled to directed verdict.—Ellis by Ellis v. Niles, 479 S.E.2d 47.

S.C. 1995. Existence of legal duty of care is essential element in cause of action for negligence; without such a duty, there can be no actionable negligence.—Rogers v. South Carolina Dept. of Parole and Community Corrections, 464 S.E.2d 330, 320 S.C. 253, rehearing denied.

3. Degrees of care in general.

D.S.C. 1994. Under South Carolina law, one who assumes to act, even though under no obligation to do so, may become subject to duty to act with due care.—Cramer v. Balcor Property Management, Inc., 848 F.Supp. 1222.

S.C. 1994. Negligence is failure to exercise due care, while "gross negligence" is failure to exercise slight care.—Clyburn v. Sumter County School Dist. No. 17, 451 S.E.2d 885, 317 S.C. 50.

S.C. 1992. At common law, where there is no duty to act but act is voluntarily undertaken the actor assumes duty to use due care.—Byerly v. Connor, 415 S.E.2d 796, 307 S.C. 441.

S.C.App. 1994. One who assumes to act, even though under no obligation to do so, thereby becomes obligated to act with due care. Restatement (Second) of Torts § 324A.—Miller v. City of Camden, 451 S.E.2d 401, 317 S.C. 28, rehearing denied.

4. Ordinary or reasonable care.

D.S.C. 1995. Under South Carolina law, "negligence" is failure to do what reasonable and prudent person would ordinarily have done under circumstances of situation, or doing what such person, under existing circumstances, would not have done, and "recklessness" is conduct where actor is in fact consciously aware that he is acting negligently; whether individual has acted negligently on particular occasion is determined from objective perspective of reasonableness under circumstances.—Roberts v. City of Forest Acres, 902 F.Supp. 662.

D.S.C. 1994. Under South Carolina law, "negligence" is the failure to use "due care," which is that degree of care which person of ordinary prudence and reason would exercise under same circumstances.—Epps v. U.S., 862 F.Supp. 1460.

S.C. 1993. Discharge of a duty requires exercise of reasonable care.—Hoeffner v. The Citadel, 429 S.E.2d 190, 311 S.C. 361, rehearing denied.

Reasonable care, in context of professional negligence, requires exercise of that degree of skill and care which is ordinarily imposed by members of profession under similar conditions and in like surrounding circumstances.—Id.

C.J.S. Negligence §§ 1 et seq., 18, 22, 71.

1. Nature and elements of negligence in general.

C.A.4 (S.C.) 1996. To make out claim of negligence under South Carolina law, plaintiff must show duty of care owed by defendant to plaintiff, each of that duty by negligent act or omission, and damage proximately resulting from breach.—Prida Auto Auction of Orlando, Inc. v. U.S., 74 3d 498.

C.A.4 (S.C.) 1992. Under South Carolina law, establish cause of action for negligence, plaintiff must show duty owed by defendant to plaintiff, each of that duty, and injury proximately caused by breach.—Brendle's Stores, Inc. v. OTR on Behalf of Bd. of Trustees of State Teachers Retirement System of Ohio, 978 F.2d 150.

D.S.C. 1994. Under South Carolina law, to prevail on claim of negligence, plaintiff must prove existence of legal duty of care on part of defendant protect her, defendant's failure to discharge that duty, and injury proximately resulting from defendant's failure to perform its duty.—Epps v. U.S., 862 F.Supp. 1460.

D.S.C. 1992. Cause of action for negligence is supported by evidence of three elements: existence of duty on part of defendant to protect plaintiff; failure of defendant to discharge duties; and injury plaintiff resulting from defendant's failure to perform.—Georgetown Steel Corp. v. Union Carbide Corp., 806 F.Supp. 74; reversed 7 F.3d 223, cert. after remand 100 F.3d 950.

S.C. 1996. To establish cause of action in negligence, three essential elements must be proven: (1) duty of care owed by defendant to plaintiff; (2) breach of that duty by negligent act or omission; (3) damage proximately resulting from breach of duty.—Rickborn v. Liberty Life Ins. Co., 468 2d 292, 321 S.C. 291, rehearing denied.

C.App. 1996. To prevail in action founded in negligence, plaintiff must establish three essential elements of duty of care owed by defendant to plaintiff, breach of that duty by negligent act or omission, and damage proximately caused by breach of duty; if plaintiff fails to prove any one of the elements, action will fail.—Vinson v. Hartley, S.E.2d 715.

Breach of duty, giving rise to negligence action, is when it is foreseeable that one's conduct may injure person to whom duty is owed.—Id. One neglects duty which proximately causes injury to another, recovery is warranted.—Id.

C.App. 1996. In any negligence action, plaintiff must establish a duty of care owed by defendant to the plaintiff, a breach of that duty by negligent act or omission, and damage proximately resulting from the breach.—Pryor v. Northwest Investments, Ltd., 469 S.E.2d 630, 321 S.C. 524.

C.App. 1995. North Carolina recognizes a distinction between negligence required for a tort that required for an act to be a crime; while "actionable negligence" involves a breach of duty making one liable for damages in tort, "culpable negligence," also known as "criminal negligence," involves such recklessness or carelessness proximately resulting in injury or death, as imports culpable disregard of consequences or a heedless indifference to the safety and rights of others.—Pate v. Rowell, 467 S.E.2d 247, 321 S.C. 114, rehearing denied, and certiorari granted.

C.App. 1994. To prove negligence claim, plaintiff must show that defendant owed him a duty to do or not to do any of the things alleged, defendant breached that duty, that plaintiff injured, and that defendant's breach of duty proximately caused the injury; negligence claim is sufficient if any of these elements is absent.—Pate v. Doe, 451 S.E.2d 408, 317 S.C. 39.

C.App. 1993. To prevail in action founded in negligence, plaintiff must establish three essential elements: (1) duty of care owed by defendant to plaintiff; (2) breach of that duty by negligent act or omission; and (3) damage proximately caused by breach of duty; if plaintiff fails to prove any one of the elements, action will fail.—Newton v. South Carolina Public Railways Com'n, 439 S.E.2d 285, 317 S.C. 107, rehearing denied, and certiorari granted, reversed 462 S.E.2d 266, 319 S.C. 430, rehearing denied.

C.App. 1993. Extent to which common law recognizes strict liability is limited to few narrowly defined categories such as cattle trespass, public nuisances, certain kinds of nuisances, and ultra hazardous activities.—Ravan v. Greenville County, 434 3d 296, 315 S.C. 447.

N.M.P.E. Chaus & Co.
 1000 N. Main St.
 Columbia, S.C. 29201

5. Customary methods and acts.

S.C. 1996. Standard of care in professional negligence actions is that of generally recognized and accepted practices in profession; standard applies to physicians, dentists, ophthalmologists, accountants, and any other profession which furnishes skilled services for compensation.—Evans v. Rite Aid Corp., 478 S.E.2d 846, rehearing denied.

S.C.App. 1994. In professional negligence cause of action, plaintiff must prove professional failed to conform to generally recognized and accepted practices in profession; if plaintiff cannot meet this burden, professional cannot be found liable as matter of law.—City of York v. Turner-Murphy Co., Inc., 452 S.E.2d 615, 317 S.C. 194, rehearing denied.

6. Requirements of statutes or ordinances.

S.C. 1997. Affirmative legal duty to act exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance.—Carson v. Adgar, 486 S.E.2d 3.

S.C. 1997. Generally, there is no common-law duty to act; however, affirmative legal duty may be created by statute, contract, status, property interest, or some other special circumstance.—Wyatt v. Fowler, 484 S.E.2d 590, affirmed 80 F.3d 1148.

11. Willful, wanton, or reckless acts or conduct.

D.S.C. 1995. Under South Carolina law, "negligence" is failure to do what reasonable and prudent person would ordinarily have done under circumstances of situation, or doing what such person, under existing circumstances, would not have done, and "recklessness" is conduct where actor is in fact consciously aware that he is acting negligently; whether individual has acted negligently on particular occasion is determined from objective perspective of reasonableness under circumstances.—Roberts v. City of Forest Acres, 902 F.Supp. 662.

S.C. 1993. Violation of statute does not constitute recklessness, willfulness, and wantonness per se, but is some evidence that defendant acted recklessly, willfully, and wantonly.—Wise v. Broadway, 433 S.E.2d 857, 315 S.C. 273, rehearing denied.

13. Degrees of negligence.

S.C. 1994. "Gross negligence" is intentional, conscious failure to do something which it is incumbent upon one to do or doing of thing intentionally that one ought not to do.—Clyburn v. Sumter County School Dist. No. 17, 451 S.E.2d 885, 317 S.C. 50.

Negligence is failure to exercise due care, while "gross negligence" is failure to exercise slight care.—Id.

S.C.App. 1997. "Gross negligence" involves intentional, conscious failure to do something which it is incumbent upon one to do or intentional doing of thing one ought not to do; term is relative, and means absence of care necessary under circumstances.—Moore v. Moore v. Berkeley County School Dist., 486 S.E.2d 9, rehearing denied.

S.C.App. 1994. "Gross negligence" is the intentional, conscious failure to do something which it is incumbent upon one to do or the doing of a thin,

intentionally that one ought not to do; it connotes failure to exercise even a slight degree of care.—Rice v. School Dist. of Fairfield, 452 S.E.2d 352, 317 S.C. 87, rehearing denied, and certiorari denied.

S.C.App. 1989. Jackson v. South Carolina Dept. of Corrections, 390 S.E.2d 467, 301 S.C. 125, certiorari granted, affirmed 397 S.E.2d 377, 302 S.C. 519.

14. Persons liable.

S.C. 1995. Generally, negligence action will not lie when parties are in privity of contract; however, when there is special relationship between alleged tort-feasor and injured party not arising in contract, breach of that duty will support tort action.—Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc., 463 S.E.2d 85, 320 S.C. 49.

II. PROXIMATE CAUSE OF INJURY.

Library references

C.J.S. Negligence § 103 et seq.

56(1.1). Necessity of causal relation between act complained of and injury.

S.C. 1993. Proof of proximate cause requires proof of causation in fact and legal cause.—Rush v.

S.C.App. 1996. Proof of proximate cause in negligence action requires proof of both causation in fact and legal cause; "causation in fact" is proved by establishing that injury would not have occurred but for defendant's negligence, while "legal cause" is proved by establishing foreseeability.—Vinson v. Hartley, 477 S.E.2d 715.

S.C.App. 1993. To prove proximate cause in negligence action, plaintiff must show both (1) causation in fact and (2) legal cause.—Newton v. South Carolina Public Railways Com'n, 439 S.E.2d 285, 312 S.C. 107, rehearing denied, and certiorari granted, reversed 462 S.E.2d 266, 319 S.C. 430, rehearing denied.

56(1.2). Test of causal relation.

S.C. 1992. "Proximate cause" requires proof of both causation in fact and legal cause.—Rush v. South Carolina Dept. of Highways and Public Transp., 422 S.E.2d 128, 309 S.C. 313, rehearing denied.

56(1.3). Necessity that act complained of be proximate cause of injury.

S.C. 1993. In negligence action, plaintiff must prove proximate cause.—Rush v. Blue Ridge, 426 S.E.2d 802, 310 S.C. 375.

Proof of proximate cause requires proof of causation in fact and legal cause.—Id.

S.C.App. 1996. Proof of proximate cause in negligence action requires proof of both causation in fact and legal cause; "causation in fact" is proved by establishing that injury would not have occurred but for defendant's negligence, while "legal cause" is proved by establishing foreseeability.—Vinson v. Hartley, 477 S.E.2d 715.

S.C.App. 1993. To prove proximate cause in negligence action, plaintiff must show both (1) causation in fact and (2) legal cause.—Newton v. South Carolina Public Railways Com'n, 439 S.E.2d 285, 312 S.C. 107, rehearing denied, and certiorari granted, reversed 462 S.E.2d 266, 319 S.C. 430, rehearing denied.

S.C.App. 1992. Negligence will be actionable unless it is proximate cause of act complained of, and it will be deemed proximate cause only when without such negligence act would not have occurred or could not have been avoided.—Alston v. Blue Ridge Transfer Co., 427 S.E.2d 631, 308 S.C. 292, certiorari denied and rehearing denied.

56(1.6). Proximate cause as act which directly and immediately produces event.

See 56(1.7).

56(1.7). In general, continuous sequence.

D.S.C. 1993. Under South Carolina law, terms "direct" and "efficient" cause are incorporated in legal definition of term "proximate cause."—Hermitage Industries v. Schwaninger Trucking Co., 814 F.Supp. 484.

S.C.App. 1996. Negligent act or omission is proximate cause of injury if it is causal and continuous sequence of events produces injury, and without it, injury would not have occurred.—Vinson v. Hartley, 477 S.E.2d 715.

Proximate cause is efficient or direct cause of injury.—Id.

56(1.8). As efficient cause.

D.S.C. 1993. Under South Carolina law, terms "direct" and "efficient" cause are incorporated in legal definition of term "proximate cause."—Hermitage Industries v. Schwaninger Trucking Co., 814 F.Supp. 484.

S.C.App. 1996. Proximate cause is efficient or direct cause of injury.—Vinson v. Hartley, 477 S.E.2d 715.

56(1.12). As act without which event would not have occurred.

S.C. 1993. Causation in fact is proved by establishing that injury would not have occurred but for defendant's negligence.—Rush v. Blanchard, 426 S.E.2d 802, 310 S.C. 375.

S.C.App. 1996. Proof of proximate cause in negligence action requires proof of both causation in fact and legal cause; "causation in fact" is proved by establishing that injury would not have occurred but for defendant's negligence, while "legal cause" is proved by establishing foreseeability.—Vinson v. Hartley, 477 S.E.2d 715.

S.C.App. 1997. Law requires only reasonable foresight, and when injury complained of is not reasonably foreseeable, in exercise of due care, there is no tort liability.—Litchman v. Fast Freight, Inc. v. Haynsworth, Marjion, McKay & Guardard.

S.C.App. 1996. Proof of proximate cause in negligence action requires proof of both causation in fact and legal cause; "causation in fact" is proved by establishing that injury would not have occurred but for defendant's negligence, while "legal cause" is proved by establishing foreseeability.—Vinson v. Hartley, 477 S.E.2d 715.

Touchstone of proximate cause for purpose negligence action is foreseeability, which is determined by looking to natural and probable consequences of act complained of.—Id.

Although foreseeability of some injury from omission is prerequisite to establishing proximate cause in negligence action, plaintiff need not prove that person charged with negligence have contemplated particular event which occurred, and it is sufficient that person should have foreseen that his negligence would probably injure to someone.—Id.

In order for conduct to amount to negligence which compensation can be collected, actor must have foreseen, or by exercise of ordinary care should have foreseen, probability that his conduct would likely cause injury to another.—Id.

One is not charged with foreseeing that which is unpredictable or which would not be expected to happen as natural and probable consequences of defendant's negligent act, and foreseeability of purposes of negligence action is to be judged from perspective of defendant at time of negligence and not after injury has occurred.—Id.

S.C.App. 1994. Proximate cause requires proof of causation in fact and legal cause; causal connection is proved by establishing injury would not have occurred "but for" defendant's negligence legal cause is proved by establishing foreseeability.—Seals by Causey v. Winburn, 445 S.E.2d 416.

S.C.App. 1993. Proximate cause is established by proof of actual and legal causation; causation is proved by establishing that injury would not have occurred but for defendant's negligence, while legal causation is proved by establishing foreseeability.—Hill v. York County School Dist., 437 S.E.2d 179, 313 S.C. 303, rehearing denied, and certiorari denied.

(D) COMPARATIVE NEGLIGENCE

Library references

C.J.S. Negligence § 169 et seq.

97. Nature and application of the doctrine of comparative negligence.

D.S.C. 1994. Recovery of damages for consortium by wife of swimmer struck by boat was properly reduced by percentage of swimmer's negligence.—Schumacher v. Cooper, 850 S.C. 438.

S.C.App. 1997. Doctrine of "assumption of risk" bars plaintiff from recovering for negligence when he or she knowingly and voluntarily enters inherent risk; it has generally displaced comparative negligence.—Davenport v. Hope Plantation Horizontal Property Trust, 482 S.E.2d 569, rehearing denied.

Assumption of risk is one facet of comparative negligence rather than complete defense to plaintiff's negligence claim.—Id.

S.C.App. 1997. Harshness of all or nothing rule of contributory negligence has been superseded by comparative negligence, under which plaintiff's negligence action may recover damages if her negligence is not greater than that of defendant, and plaintiff's recovery is reduced in proportion to amount of his or her negligence, compared to combined negligence of all parties.—Brown v. Smalls, 481 S.E.2d 444.

S.C.App. 1995. Adoption of comparative negligence abrogated proposition of law that a statute amounting to negligence per se for plaintiff from recovery of damages.—Oman, 463 S.E.2d 101, 320 S.C. 72.

100. Unlawful, willful, or wanton gross negligence.

S.C. 1993. Jury's inability to consider reckless and wanton conduct on part of motorist effectively eliminated preceding defense to following motorist's claim that motorist had been contributorily negligent since contributory negligence would not be available to following motorist as defense if motorist had been reckless.—Wise v. Broadway, 433 S.E.2d 857, 315 S.C. 273, rehearing denied.

S.C.App. 1997. In addition to "less than equal to" modified approach, other courts have adopted "equal to" approach.

Appendix 1.

Physical Activity Guidelines for Americans

In addition to consuming a healthy eating pattern, regular physical activity is one of the most important things Americans can do to improve their health. The *Physical Activity Guidelines for Americans*,^[1] released by the U.S. Department of Health and Human Services, provides a comprehensive set of recommendations for Americans on the amounts and types of physical activity needed each day. Adults need at

least 150 minutes of moderate-intensity physical activity and should perform muscle-strengthening exercises on 2 or more days each week. Youth ages 6 to 17 years need at least 60 minutes of physical activity per day, including aerobic, muscle-strengthening, and bone-strengthening activities (see Table A1-1 for additional details). Just as individuals can achieve a healthy eating pattern in a variety of ways that meet

their personal and cultural preferences, they can engage in regular physical activity in a variety of ways throughout the day and by choosing activities they enjoy. Table A1-2 provides a list of Federal resources, including handouts, online assessments, trackers, and interactive websites. These can be used to help motivate consumer audiences and make healthy physical activity choices.

Table A1-1.

Physical Activity Guidelines for Americans Recommendations

Age	Recommendations
6 to 17 Years	<p>Children and adolescents should do 60 minutes (1 hour) or more of physical activity daily.</p> <ul style="list-style-type: none">• Aerobic: Most of the 60 or more minutes a day should be either moderate-intensity^[2] or vigorous-intensity^[3] aerobic physical activity, and should include vigorous-intensity physical activity at least 3 days a week.• Muscle-strengthening:^[4] As part of their 60 or more minutes of daily physical activity, children and adolescents should include muscle-strengthening physical activity on at least 3 days of the week.• Bone-strengthening:^[5] As part of their 60 or more minutes of daily physical activity, children and adolescents should include bone-strengthening physical activity on at least 3 days of the week.• It is important to encourage young people to participate in physical activities that are appropriate for their age, that are enjoyable, and that offer variety.

[1] U.S. Department of Health and Human Services. *2008 Physical Activity Guidelines for Americans*. Washington (DC): U.S. Department of Health and Human Services; 2008. HHS TIP Publication 0089. Available at: <http://www.health.gov/ea/guidelines>. Accessed August 6, 2015.

Age

Recommendations

18 to 64 Years

- All adults should avoid inactivity. Some physical activity is better than none, and adults who participate in any amount of physical activity gain some health benefits.
- For substantial health benefits, adults should do at least 150 minutes (2 hours and 30 minutes) a week of moderate-intensity, or 75 minutes (1 hour and 15 minutes) a week of vigorous-intensity aerobic physical activity, or an equivalent combination of moderate- and vigorous-intensity aerobic activity. Aerobic activity should be performed in episodes of at least 10 minutes, and preferably, it should be spread throughout the week.
- For additional and more extensive health benefits, adults should increase their aerobic physical activity to 300 minutes (5 hours) a week of moderate-intensity, or 150 minutes a week of vigorous-intensity aerobic physical activity, or an equivalent combination of moderate- and vigorous-intensity activity. Additional health benefits are gained by engaging in physical activity beyond this amount.
- Adults should also include muscle-strengthening activities that involve all major muscle groups on 2 or more days a week.

65 Years & Older

- Older adults should follow the adult guidelines. When older adults cannot meet the adult guidelines, they should be as physically active as their abilities and conditions will allow.
- Older adults should do exercises that maintain or improve balance if they are at risk of falling.
- Older adults should determine their level of effort for physical activity relative to their level of fitness.
- Older adults with chronic conditions should understand whether and how their conditions affect their ability to do regular physical activity safely.

Appendix 2

Estimated Calorie Needs per Day, by Age, Sex, & Physical Activity Level

The total number of calories a person needs each day varies depending on a number of factors, including the person's age, sex, height, weight, and level of physical activity. In addition, a need to lose, maintain, or gain weight and other factors affect how many calories should be consumed. Estimated amounts of calories needed to maintain calorie balance for various age and sex groups at three different levels of physical activity are provided in Table A2-1. These estimates are based on the Estimated Energy Requirements (EER) equations, using reference heights

(average) and reference weights (healthy) for each age-sex group. For children and adolescents, reference height and weight vary. For adults, the reference man is 5 feet 10 inches tall and weighs 154 pounds. The reference woman is 5 feet 4 inches tall and weighs 126 pounds.

Estimates range from 1,600 to 2,400 calories per day for adult women and 2,000 to 3,000 calories per day for adult men. Within each age and sex category, the low end of the range is for sedentary individuals; the high end of the range is for active individuals. Due to reductions

in basal metabolic rate that occur with aging, calorie needs generally decrease for adults as they age. Estimated needs for young children range from 1,000 to 2,000 calories per day, and the range for older children and adolescents varies substantially from 1,400 to 3,200 calories per day, with boys generally having higher calorie needs than girls. These are only estimates, and approximations of individual calorie needs can be aided with online tools such as those available at www.supertracker.usda.gov.

Table A2-1. Estimated Calorie Needs per Day, by Age, Sex, & Physical Activity Level

Males				Females			
Age	Sedentary ^a	Moderately Active ^b	Active	Age	Sedentary ^a	Moderately Active ^b	Active
2	1,000	1,000	1,000	2	1,000	1,000	1,000
3	1,000	1,400	1,400	3	1,000	1,200	1,400
4	1,200	1,400	1,600	4	1,200	1,400	1,400
5	1,200	1,400	1,600	5	1,200	1,400	1,600
6	1,400	1,600	1,800	6	1,200	1,400	1,600
7	1,400	1,600	1,800	7	1,200	1,600	1,800
8	1,400	1,600	2,000	8	1,400	1,600	1,800

Age	Sedentary ^(a)	Moderately Active ^(a)	Active ^(a)
9	1,600	1,800	2,000
10	1,800	1,800	2,200
11	1,800	2,000	2,200
12	1,800	2,200	2,400
13	2,000	2,200	2,600
14	2,000	2,400	2,800
15	2,200	2,600	3,000
16	2,400	2,800	3,200
17	2,400	2,800	3,200
18	2,400	2,800	3,200
19-20	2,600	2,800	3,000
21-25	2,400	2,800	3,000
26-30	2,400	2,600	3,000
31-35	2,400	2,600	3,000
36-40	2,400	2,600	2,800
41-45	2,200	2,600	2,800
46-50	2,200	2,400	2,800
51-55	2,200	2,400	2,800
56-60	2,200	2,400	2,600
61-65	2,000	2,400	2,600
66-70	2,000	2,200	2,600
71-75	2,000	2,200	2,600
76 & Up	2,000	2,200	2,400

females^(a)

Age	Sedentary ^(a)	Moderately Active ^(a)	Active ^(a)
9	1,400	1,600	1,800
10	1,400	1,800	2,000
11	1,600	1,800	2,000
12	1,600	2,000	2,200
13	1,600	2,000	2,200
14	1,800	2,000	2,400
15	1,800	2,000	2,400
16	1,600	2,000	2,400
17	1,800	2,000	2,400
18	1,800	2,000	2,400
19-20	2,000	2,200	2,400
21-25	2,000	2,200	2,400
26-30	1,800	2,000	2,400
31-35	1,800	2,000	2,200
36-40	1,800	2,000	2,200
41-45	1,800	2,000	2,200
46-50	1,800	2,000	2,200
51-55	1,600	1,800	2,200
56-60	1,600	1,800	2,200
61-65	1,600	1,800	2,000
66-70	1,600	1,800	2,000
71-75	1,600	1,800	2,000
76 & Up	1,600	1,800	2,000

Appendix 7.

Nutritional Goals for Age-Sex Groups Based on Dietary Reference Intakes & Dietary Guidelines Recommendations

Table A7-1.

Daily Nutritional Goals for Age-Sex Groups Based on Dietary Reference Intakes & Dietary Guidelines Recommendations

Source of Goal	Child 4-9	Female 10-19	Male 20	Female 20-29	Male 30-39	Female 40-49	Male 50-59	Female 60-69	Male 70-79	Female 80-89	Male 90+	
Calorie Level(s) Assessed	1,000	1,200	1,400, 1,600	1,600	1,800	1,800	2,200, 2,800, 3,200	2,000	2,400, 2,600, 3,000	1,800	2,200	1,600
Macronutrients												
Protein	RDA	13	19	19	34	34	46	52	46	56	46	56
Recomm. Plant	AMDR	5-20	10-30	10-30	10-30	10-30	10-30	10-30	10-35	10-35	10-35	10-35
Carbohydrate	RDA	130	130	130	130	130	130	130	130	130	130	130
Carbohydrate	AMDR	45-65	45-65	45-65	45-65	45-65	45-65	45-65	45-65	45-65	45-65	45-65
Dietary Fiber	14 g/ 1,000 kcal	14	16.8	19.6	22.4	25.2	25.2	30.8	28	33.6	25.2	30.8
Added Sugar	DGA	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%
Total Fat	AMDR	30-40	25-35	25-35	25-35	25-35	25-35	25-35	20-35	20-35	20-35	20-35
Saturated Fat	DGA	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%
Cholesterol	AI	7	10	10	10	12	11	16	12	17	12	17
Trans Fat	AI	0.7	0.9	0.9	1	1.2	1.1	1.6	1.1	1.6	1.1	1.6

Calorie Level of Pattern

1,000	1,200	1,400	1,600	1,800	2,000	2,200	2,400	2,600	2,800	3,000	3,200
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Daily Amount⁽¹⁾ of Food From Each Group (vegetable and protein foods subgroup amounts are per week)

Food Group ⁽²⁾	1 oz-eq	1½ oz-eq	2 oz-eq	2½ oz-eq	3 oz-eq	3½ oz-eq	3¾ oz-eq	4 oz-eq	4½ oz-eq	5 oz-eq	5½ oz-eq	6 oz-eq
Protein Foods												
Eggs (oz-eq/wk)	2	3	3	3	3	3	3	3	3	4	4	4
Legumes (Beans & Peas) (oz-eq/wk)	1	2	4	4	6	6	6	8	9	10	11	12
Soy Products (oz-eq/wk)	2	3	4	6	6	8	8	9	10	11	12	13
Nuts & Seeds (oz-eq/wk)	2	2	3	5	6	7	7	8	9	10	12	13
Oils	15 g	17 g	17 g	22 g	24 g	27 g	29 g	31 g	34 g	36 g	44 g	51 g
Limit on Calories for Other Uses Calories (% of Calories) ⁽³⁾	190 (19%)	170 (14%)	190 (14%)	160 (11%)	190 (11%)	230 (15%)	330 (15%)	330 (16%)	380 (15%)	400 (14%)	440 (15%)	550 (17%)

Calorie Level of Pattern

1,000	1,200	1,400	1,600	1,800	2,000	2,200	2,400	2,600	2,800	3,000	3,200
-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------

Total Legumes (Beans & Peas) (c-eq/wk)	1	1	1½	2	3	3	3½	4	5	5	6	6
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Dietary Principles

Healthy eating patterns support a healthy body weight and can help prevent and reduce the risk of chronic disease throughout periods of growth, development, and aging as well as during pregnancy. The following principles apply to meeting the Key Recommendations:

An eating pattern represents the totality of all foods and beverages consumed. All foods consumed as part of a healthy eating pattern fit together

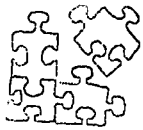
into a puzzle to meet nutritional needs without exceeding limits, such as those for saturated fats, added sugars, sodium, and total calories. All forms of foods, including fresh, canned, dried, and frozen, can be included in healthy eating patterns.

Nutritional needs should be met primarily from foods. Individuals should aim to meet their nutrient needs through healthy eating patterns that include nutrient-dense foods. Foods in nutrient-dense forms contain essential vitamins and minerals and also dietary fiber and other naturally occurring substances

that may have positive health effects. In some cases, fortified foods and dietary supplements may be useful in providing one or more nutrients that otherwise may be consumed in less than recommended amounts (see Chapter 2. Shifts Needed To Align With Healthy Eating Patterns).

Healthy eating patterns are adaptable. Individuals have more than one way to achieve a healthy eating pattern. Any eating pattern can be tailored to the individual's socio-cultural and personal preferences.

Healthy Physical Activity Patterns



Key Recommendation:

Meet the *Physical Activity Guidelines for Americans*

In addition to consuming a healthy eating pattern, individuals in the United States should meet the *Physical Activity Guidelines for Americans*.⁵¹ Regular physical activity is one of the most important things individuals can do to improve their health. The *Physical Activity Guidelines*, released by the U.S. Department of Health and Human Services, provides a comprehensive set of recommendations for Americans on the amounts and types of physical activity needed each day (see Appendix 1. *Physical Activity Guidelines for Americans*). Adults need at least 150 minutes of moderate intensity physical activity and should perform muscle-strengthening exercises on 2 or more days each week. Youth ages 6 to 17 years need at least 60 minutes of physical activity per day, including aerobic, muscle-strengthening, and bone-strengthening activities. Establishing and maintaining a regular physical activity pattern can provide many health benefits. Strong evidence shows that regular physical activity helps people maintain a healthy weight, prevent excessive weight gain, and lose weight when combined with a healthy eating pattern lower in calories. Strong evidence also demonstrates that regular physical activity lowers the risk of early death, coronary heart disease, stroke, high blood pressure, adverse blood lipid profile, type 2 diabetes, breast and colon cancer, and metabolic syndrome; it also reduces depression and prevents falls. People can engage in regular physical activity in a variety of ways throughout the day and by choosing activities they enjoy. The *Physical Activity Guidelines* provides additional details on the benefits of physical activity and strategies to incorporate regular physical activity into a healthy lifestyle.

51. Department of Health and Human Services. 2008 *Physical Activity Guidelines for Americans*. Washington (DC): U.S. Department of Health and Human Services; 2008. ODPHP Publication No. 5. Available at: <http://www.health.gov/paguidelines>. Accessed August 6, 2015



United States Department of Agriculture

10 tips Nutrition Education Series



Based on the Dietary Guidelines for Americans

Choose MyPlate

Use MyPlate to build your healthy eating style and maintain it for a lifetime. Choose foods and beverages from each MyPlate food group. Make sure your choices are limited in sodium, saturated fat, and added sugars. Start with small changes to make healthier choices you can enjoy.

1 Find your healthy eating style

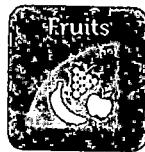
Creating a healthy style means regularly eating a variety of foods to get the nutrients and calories you need. MyPlate's tips help you create your own healthy eating solutions—"MyWins."

2 Make half your plate fruits and vegetables

Eating colorful fruits and vegetables is important because they provide vitamins and minerals and most are low in calories.

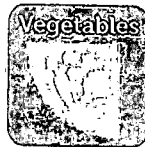
3 Focus on whole fruits

Choose whole fruits—fresh, frozen, dried, or canned in 100% juice. Enjoy fruit with meals, as snacks, or as a dessert.



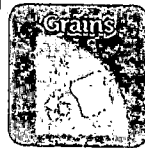
4 Vary your veggies

Try adding fresh, frozen, or canned vegetables to salads, sides, and main dishes. Choose a variety of colorful vegetables prepared in healthful ways: steamed, sauteed, roasted, or raw.



5 Make half your grains whole grains

Look for whole grains listed first or second on the ingredients list—try oatmeal, popcorn, whole-grain bread, and brown rice. Limit grain-based desserts and snacks, such as cakes, cookies, and pastries.



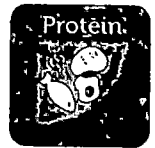
6 Move to low-fat or fat-free milk or yogurt

Choose low-fat or fat-free milk, yogurt, and soy beverages (soymilk) to cut back on saturated fat. Replace sour cream, cream, and regular cheese with low-fat yogurt, milk, and cheese.



7 Vary your protein routine

Mix up your protein foods to include seafood, beans and peas, unsalted nuts and seeds, soy products, eggs, and lean meats and poultry. Try main dishes made with beans or seafood like tuna salad or bean chili.



8 Drink and eat beverages and food with less sodium, saturated fat, and added sugars

Use the Nutrition Facts label and ingredients list to limit items high in sodium, saturated fat, and added sugars. Choose vegetable oils instead of butter, and oil-based sauces and dips instead of ones with butter, cream, or cheese.



9 Drink water instead of sugary drinks

Water is calorie-free. Non-diet soda, energy or sports drinks, and other sugar-sweetened drinks contain a lot of calories from added sugars and have few nutrients.

10 Everything you eat and drink matters

The right mix of foods can help you be healthier now and into the future. Turn small changes into your "MyPlate, MyWins."

Healthy Eating Patterns

The following sections describe a healthy eating pattern and how following such a pattern can help people meet the Guidelines and its Key Recommendations. Throughout, it uses the Healthy U.S.-Style Eating Pattern as an example to illustrate the specific amounts and limits for food groups and other dietary components that make up healthy eating patterns. The Healthy U.S.-Style Eating Pattern is one of three USDA Food Patterns and is based on the types and proportions of foods Americans typically consume, but in nutrient-dense forms and appropriate amounts. Because calorie needs vary based on age, sex, height, weight, and level of physical activity (see Appendix 2. Estimated Calorie Needs per Day, by Age, Sex, and Physical Activity Level), the pattern has been provided at 12 different calorie levels (see Appendix 3. USDA Food Patterns: Healthy U.S.-Style Eating Pattern). The 2,000-calorie level of the Pattern is shown in Table 1-1.

The Healthy U.S.-Style Eating Pattern is the same as the primary USDA Food Patterns of the 2010 Dietary Guidelines. Two additional USDA Food Patterns—the Healthy Mediterranean-Style Eating Pattern and the Healthy Vegetarian Eating Pattern—are found at the end of this chapter and reflect other styles of eating (see Appendix 4. USDA Food Patterns: Healthy Mediterranean-Style Eating Pattern and Appendix 5. USDA Food Patterns: Healthy Vegetarian Eating Pattern). These three patterns are examples of healthy eating patterns that can be adapted based on cultural and personal preferences. The USDA Food Patterns also can be used as guides to plan and serve meals not only for the individual and household but in a variety of other settings, including schools, worksites, and other community settings.

Healthy U.S.-Style Eating Pattern at the 2,000-Calorie Level, With Daily or Weekly Amounts From Food Groups, Subgroups, & Components

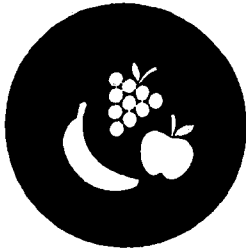
Food Group ^a	Amount ^b in the 2,000-Calorie-Level Pattern
Vegetables	2½ c-eq/day
Dark Green	1½ c-eq/wk
Red & Orange	5½ c-eq/wk
Legumes (Beans & Peas)	1½ c-eq/wk
Starchy	5 c-eq/wk
Other	4 c-eq/wk
Fruits	2 c-eq/day
Grains	6 oz-eq/day
Whole Grains	≥ 3 oz-eq/day
Refined Grains	≤ 3 oz-eq/day
Dairy	3 c-eq/day
Protein Foods	5½ oz-eq/day
Seafood	8 oz-eq/wk
Meats, Poultry, Eggs	26 oz-eq/wk
Nuts, Seeds, Soy Products	5 oz-eq/wk
Oils	27 g/day
Limit on Calories for Other Uses (% of Calories)	270 kcal/day (14%)



United States Department of Agriculture

Start simple with MyPlate

Start simple and take healthy eating one step at a time.



Focus on whole fruits

Include fruit at breakfast! Top whole-grain cereal with your favorite fruit, add berries to pancakes, or mix dried fruit into hot oatmeal.



Vary your veggies

Cook a variety of colorful veggies. Make extra vegetables and save some for later. Use them for a stew, soup, or a pasta dish.



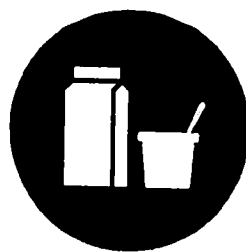
Vary your protein routine

Next taco night, try adding a new protein, like shrimp, beans, chicken, or beef.



Make half your grains whole grains

Add brown rice to your stir-fry dishes. Combine your favorite veggies and protein foods for a nutritious meal.



Move to low-fat or fat-free milk or yogurt

Enjoy a low-fat yogurt parfait for breakfast. Top with fruit and nuts to get in two more food groups.



Drink and eat less sodium, saturated fat, and added sugars

Cook at home and read the ingredients to compare foods.

The Healthy U.S.-Style Eating Pattern is designed to meet the Recommended Dietary Allowances (RDA) and Adequate Intakes for essential nutrients, as well as Acceptable Macronutrient Distribution Ranges (AMDR)

set by the Food and Nutrition Board of the IOM. This eating pattern also conforms to limits set by the IOM or *Dietary Guidelines* for other nutrients or food components (see Appendix 6, Glossary of Terms and Appendix 7.

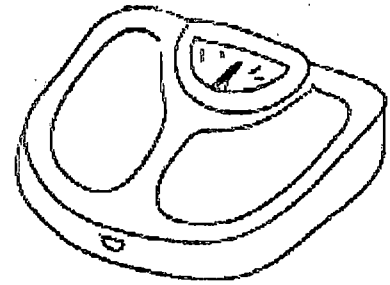
Nutritional Goals for Age-Sex Group on Dietary Reference Intakes and Evidence-Based Recommendations). Nutrients for almost all nutrients are in Appendix 3 for additional information.

Figure 1-1. Cup- & Ounce-Equivalents

Within a food group, foods can come in many forms and are not created equal in terms of what counts as a cup or an ounce. Some foods are more concentrated, and some are more airy or contain more water. Cup- and ounce-equivalents identify the amounts of foods from each food group with similar nutritional content. In addition, portion sizes do not always align with one cup-equivalent or one ounce-equivalent. See examples below for variability.



Importance of Calorie Balance Within Healthy Eating Patterns



116

Managing calorie intake is fundamental to achieving and maintaining calorie balance—the balance between the calories taken in from foods and the calories expended from metabolic processes and physical activity. The best way to determine whether an eating pattern is at an appropriate number of calories is to monitor body weight and adjust calorie intake and expenditure in physical activity based on changes in weight over time.

All foods and many beverages contain calories, and the total number of calories varies depending on the macronutrients in a food. On average, carbohydrates and protein contain 4 calories per gram, fats contain 9 calories per gram, and alcohol has 7 calories per gram. The total number of calories a person needs each day varies depending on a number of factors, including the person's age, sex, height, weight, and level of physical activity (see Appendix 2). In addition, a need to lose, maintain, or gain weight and other factors affect how many calories should be consumed.

All Americans—children, adolescents, adults, and older adults—are encouraged to achieve and/or maintain a healthy body weight. General guidance for achieving and maintaining a healthy body weight is provided below, and Appendix 8. Federal Resources for Information on Nutrition and Physical Activity provides additional resources, including an evolving array of tools to facilitate Americans' adoption of healthy choices.

- Children and adolescents are encouraged to maintain calorie balance to support normal growth and development without promoting excess weight gain. Children and adolescents who are overweight or obese should change their eating and physical activity behaviors to maintain or reduce their rate of weight gain while linear growth occurs, so that they can reduce body mass index (BMI) percentile toward a healthy range.
- Before becoming pregnant, women are encouraged to achieve and maintain a healthy weight, and women who are pregnant are encouraged to gain weight within gestational weight gain guidelines.^[8]
- Adults who are obese should change their eating and physical activity behaviors to prevent additional weight gain and/or promote weight loss. Adults who are overweight should not gain additional weight, and those with one or more CVD risk factors (e.g., hypertension and hyperlipidemia) should change their eating and physical activity behaviors to lose weight. To lose weight, most people need to reduce the number of calories they get from foods and beverages and increase their physical activity. For a weight loss of 1 to 1½ pounds per week, daily intake should be reduced by 500 to 750 calories. Eating patterns that contain 1,200 to 1,500 calories each day can help most women lose weight safely, and eating patterns that contain 1,500 to 1,800 calories each day are suitable for most men for weight loss. In adults who are overweight or obese, if reduction in total calorie intake is achieved, a variety of eating patterns can produce weight loss, particularly in the first 6 months to 2 years;^[9] however, more research is needed on the health implications of consuming these eating patterns long-term.
- Older adults, ages 65 years and older, who are overweight or obese are encouraged to prevent additional weight gain. Among older adults who are obese, particularly those with CVD risk factors, intentional weight loss can be beneficial and result in improved quality of life and reduced risk of chronic diseases and associated disabilities.

[8] Institute of Medicine (IOM) and National Research Council (NRC). Weight gain during pregnancy: Reexamining the guidelines. Washington (DC): The National Academies Press; 2009.

[9] Jensen MD, Ryan DH, Apovian CM, Ard JD, Comuzzie AG, Donato KA, et al. 2013 AHA/ACC/TOS guideline for the management of overweight and obesity in adults: a report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines and The Obesity Society. *J Am Coll Cardiol*. 2014;63(25 Pt B):2985-3023. PMID: 24239920. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/24239920>.

Food Groups

Eating an appropriate mix of foods from the food groups and subgroups—within an appropriate calorie level—is important to promote health. Each of the food groups and their subgroups provides an array of nutrients, and the amounts recommended reflect eating patterns that have been associated with positive health outcomes. Foods from all of the food groups should be eaten in nutrient-dense forms. The following sections describe the recommendations for each of the food groups, highlight nutrients for which the food group is a key contributor, and describe special considerations related to the food group.

Vegetables

Healthy Intake: Healthy eating patterns include a variety of vegetables from all of the five vegetable subgroups—dark green, red and orange, legumes (beans and peas), starchy, and other.^[10] These include all fresh, frozen, canned, and dried options in cooked or raw forms, including vegetable juices. The recommended amount of vegetables in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 2½ cup-equivalents of vegetables per day. In addition, weekly amounts from each vegetable subgroup are recommended to ensure variety and meet nutrient needs.

Key Nutrient Contributions: Vegetables are important sources of many nutrients, including dietary fiber, potassium, vitamin A,^[11] vitamin C, vitamin K, copper, magnesium, vitamin E, vitamin B6, folate, iron, manganese, thiamin, niacin, and choline. Each of the vegetable subgroups contributes different combinations of nutrients, making it important for individuals to consume vegetables from all the subgroups. For example, dark-green vegetables provide the most vitamin K, red

About Legumes (Beans & Peas)

Legumes include kidney beans, pinto beans, white beans, black beans, garbanzo beans (chickpeas), lima beans (mature, dried), split peas, lentils, and edamame (green soybeans).

Legumes are excellent sources of protein. In addition, they provide other nutrients that also are found in seafood, meats, and poultry, such as iron and zinc. They are excellent sources of dietary fiber and of nutrients, such as potassium and folate that also are found in other vegetables.

Because legumes have a similar nutrient profile to foods in both the protein foods group and the vegetable group, they may be thought of as either a vegetable or a protein food and thus, can be counted as a vegetable or a protein food to meet recommended intakes.

Green peas and green (string) beans are not counted in the legume subgroup, because their nutrient compositions are not similar to legumes. Green peas are similar to starchy vegetables and are grouped with them. Green beans are grouped with the other vegetables subgroup, which includes onions, iceberg lettuce, celery, and cabbage, because their nutrient content is not similar to legumes.



and orange vegetables the most vitamin A, legumes the most dietary fiber, and starchy vegetables the most potassium. Vegetables in the "other" vegetable subgroup provide a wide range of nutrients in varying amounts.

Considerations: To provide all of the nutrients and potential health benefits that vary across different types of vegetables, the Healthy U.S.-Style Eating Pattern includes weekly recommendations for each subgroup. Vegetable choices over time should vary and include many different vegetables. Vegetables should be consumed in a nutrient-dense form, with limited additions such as salt, butter, or creamy sauces. When selecting frozen or canned vegetables, choose those lower in sodium.

Fruits

Healthy Intake: Healthy eating patterns include fruits, especially whole fruits. The fruits food group includes whole fruits

and 100% fruit juice. Whole fruits include fresh, canned, frozen, and dried forms. The recommended amount of fruits in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 2 cup-equivalents per day. One cup of 100% fruit juice counts as 1 cup of fruit. Although fruit juice can be part of healthy eating patterns, it is lower than whole fruit in dietary fiber and when consumed in excess can contribute extra calories. Therefore, at least half of the recommended amount of fruits should come from whole fruits. When juices are consumed, they should be 100% juice, without added sugars. Also, when selecting canned fruit, choose options that are lowest in added sugars. One-half cup of dried fruit counts as one cup-equivalent of fruit. Similar to juice, when consumed in excess, dried fruits can contribute extra calories.

Key Nutrient Contributions: Among the many nutrients fruits provide are dietary fiber, potassium, and vitamin C.

[10] Definitions for each food group and subgroup are provided throughout the chapter and are compiled in Appendix 3.

Considerations: Juices may be partially fruit juice, and only the proportion that is 100% fruit juice counts (e.g., 1 cup of juice that is 50% juice counts as ½ cup of fruit juice). The remainder of the product may contain added sugars. Sweetened juice products with minimal juice content, such as juice drinks, are considered to be sugar-sweetened beverages rather than fruit juice because they are primarily composed of water with added sugars (see the Added Sugars section). The percent of juice in a beverage may be found on the package label, such as “contains 25% juice” or “100% fruit juice.” The amounts of fruit juice allowed in the USDA Food Patterns for young children align with the recommendation from the American Academy of Pediatrics that young children consume no more than 4 to 6 fluid ounces of 100% fruit juice per day.^[12] Fruits with small amounts of added sugars can be accommodated in the diet as long as calories from added sugars do not exceed 10 percent per day and total calorie intake remains within limits.

Grains

Healthy Intake: Healthy eating patterns include whole grains and limit the intake of refined grains and products made with refined grains, especially those high in saturated fats, added sugars, and/or sodium, such as cookies, cakes, and some snack foods. The grains food group includes grains as single foods (e.g., rice, oatmeal, and popcorn), as well as products that include grains as an ingredient (e.g., breads, cereals, crackers, and pasta). Grains are either whole or refined. Whole grains (e.g., brown rice, quinoa, and oats) contain the entire kernel, including the endosperm, bran, and germ. Refined grains differ from whole grains

in that the grains have been processed to remove the bran and germ, which removes dietary fiber, iron, and other nutrients. The recommended amount of grains in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 6 ounce-equivalents per day. At least half of this amount should be whole grains (see the How To Make at Least Half of Grains Whole Grains call-out box).

Key Nutrient Contributions: Whole grains are a source of nutrients, such as dietary fiber, iron, zinc, manganese, folate, magnesium, copper, thiamin, niacin, vitamin B6, phosphorus, selenium, riboflavin, and vitamin A.^[13] Whole grains vary in their dietary fiber content. Most refined grains are enriched, a process that adds back iron and four B vitamins (thiamin, riboflavin, niacin, and folic acid). Because of this process, the term “enriched grains” is often used to describe these refined grains.

Considerations: Individuals who eat refined grains should choose enriched grains. Those who consume all of their grains as whole grains should include some grains, such as some whole-grain ready-to-eat breakfast cereals, that have been fortified with folic acid. This is particularly important for women who are or are capable of becoming pregnant, as folic acid fortification in the United States has been successful in reducing the incidence of neural tube defects during fetal development. Although grain products that are high in added sugars and saturated fats, such as cookies, cakes, and some snack foods, should be limited, as discussed in the Added Sugars and Saturated Fats sections, grains with some added sugars and saturated fats can fit within healthy eating patterns.

How To Make at Least Half of Grains Whole Grains



A food is a 100-percent whole-grain food if the only grains it contains are whole grains. One ounce-equivalent of whole grains has 16 g of whole grains. The recommendation to consume at least half of total grains as whole grains can be met in a number of ways.

The most direct way to meet the whole grain recommendation is to choose 100 percent whole-grain foods for at least half of all grains consumed. The relative amount of whole grain in the food can be inferred by the placement of the grain in the ingredients list. The whole grain should be the first ingredient—or the second ingredient, after water. For foods with multiple whole-grain ingredients, they should appear near the beginning of the ingredients list.

Many grain foods contain both whole grains and refined grains. These food also can help people meet the whole grain recommendation, especially if considerable proportion of the grain ingredients is whole grains. Another way to meet the recommendation to make at least half of grains whole grains is to choose products with at least 50 percent of the total weight as whole-grain ingredients.^{[14],[15]} If a food has at least 8 g of whole grains per ounce-equivalent, it is at least half whole grains.^[16] Some product labels show the whole grains health claim or the grams of whole grain in the product. This information may help people identify food choices that have a substantial amount of whole grain

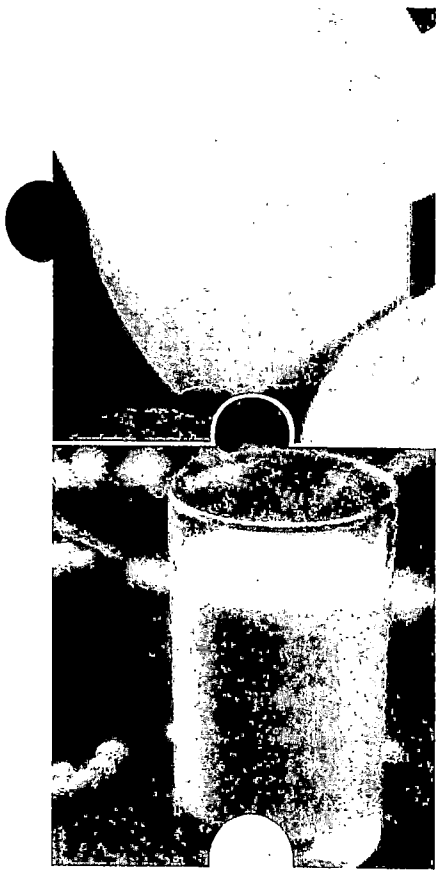
[12] American Academy of Pediatrics. Healthy Children, Fit Children: Answers to Common Questions From Parents About Nutrition and Fitness. 2011.

[13] In the form of provitamin A carotenoids

[14] Products that bear the U.S. Food and Drug Administration (FDA) health claim for whole grains have at least 51 percent of the total ingredients by weight as whole-grain ingredients; they also meet other criteria.

[15] Foods that meet the whole grain-rich criteria for the school meal programs contain 100 percent whole grain or a blend of whole-grain meal and/or flour and enriched meal and/or flour of which at least 50 percent is whole grain. The remaining 50 percent or less of grains, if any, must be enriched. <http://www.fns.usda.gov/sites/default/files/WholeGrainResource.pdf>. Accessed October 22, 2015.

[16] Adapted from the Food Safety and Inspection Service (FSIS) guidance on whole-grain claims. Available at: <http://www.fsis.usda.gov/wps/portal/fsis/home>. Accessed November 25, 2015.



Dairy

Healthy Intake: Healthy eating patterns include fat-free and low-fat (1%) dairy, including milk, yogurt, cheese, or fortified soy beverages (commonly known as “soymilk”). Soy beverages fortified with calcium, vitamin A, and vitamin D, are included as part of the dairy group because they are similar to milk based on nutrient composition and in their use in meals. Other products sold as “milks” but made from plants (e.g., almond, rice, coconut, and hemp “milks”) may contain calcium and be consumed as a source of calcium, but they are not included as part of the dairy group because their overall nutritional content is not similar to dairy milk and fortified soy beverages (soymilk). The recommended amounts of dairy in the Healthy U.S.-Style Pattern are based on age rather than calorie level and are

2 cup-equivalents per day for children ages 2 to 3 years, 2½ cup-equivalents per day for children ages 4 to 8 years, and 3 cup-equivalents per day for adolescents ages 9 to 18 years and for adults.

Key Nutrient Contributions: The dairy group contributes many nutrients, including calcium, phosphorus, vitamin A, vitamin D (in products fortified with vitamin D), riboflavin, vitamin B12, protein, potassium, zinc, choline, magnesium, and selenium.

Considerations: Fat-free and low-fat (1%) dairy products provide the same nutrients but less fat (and thus, fewer calories) than higher fat options, such as 2% and whole milk and regular cheese. Fat-free or low-fat milk and yogurt, in comparison to cheese, contain less saturated fats and sodium and more potassium, vitamin A, and vitamin D. Thus, increasing the proportion of dairy intake that is fat-free or low-fat milk or yogurt and decreasing the proportion that is cheese would decrease saturated fats and sodium and increase potassium, vitamin A, and vitamin D provided from the dairy group. Individuals who are lactose intolerant can choose low-lactose and lactose-free dairy products. Those who are unable or choose not to consume dairy products should consume foods that provide the range of nutrients generally obtained from dairy, including protein, calcium, potassium, magnesium, vitamin D, and vitamin A (e.g., fortified soy beverages [soymilk]). Additional sources of potassium, calcium, and vitamin D are found in Appendix 10, Appendix 11, and Appendix 12, respectively.

Protein Foods

Healthy Intake: Healthy eating patterns include a variety of protein foods in nutrient-dense forms. The protein foods group comprises a broad group of foods

from both animal and plant sources and includes several subgroups: seafood; meats, poultry, and eggs; and nuts, seeds, and soy products. Legumes (beans and peas) may also be considered part of the protein foods group as well as the vegetables group (see the About Legumes (Beans and Peas) call-out box). Protein also is found in some foods from other food groups (e.g., dairy). The recommendation for protein foods in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 5½ ounce-equivalents of protein foods per day.

Key Nutrient Contributions: Protein foods are important sources of nutrients, in addition to protein, including B vitamins (e.g., niacin, vitamin B₁₂, vitamin B₆, and riboflavin), selenium, choline, phosphorus, zinc, copper, vitamin D, and vitamin E). Nutrients provided by various types of protein foods differ. For example, meats provide the most zinc, while poultry provides the most niacin. Meats, poultry, and seafood provide heme iron, which is more bioavailable than the non-heme iron found in plant sources. Heme iron is especially important for young children and women who are capable of becoming pregnant or who are pregnant. Seafood provides the most vitamin B₁₂ and vitamin D, in addition to almost all of the polyunsaturated omega-3 fatty acids, eicosapentaenoic acid (EPA), and docosahexaenoic acid (DHA) in the Patterns (see the About Seafood call-out box). Eggs provide the most choline, and nuts and seeds provide the most vitamin E. Soy products are a source of copper, manganese, and iron, as are legumes.

Considerations: For balance and flexibility within the food group, the Healthy U.S.-Style Eating Pattern includes weekly recommendations for the subgroups: seafood; meats, poultry, and eggs; and nuts, seeds, and soy products. A specific

recommendation for at least 8 ounce-equivalents of seafood per week also is included for the 2,000-calorie level (see the About Seafood call-out box). One-half ounce of nuts or seeds counts as 1 ounce-equivalent of protein foods, and because they are high in calories, they should be eaten in small portions

and used to replace other protein foods rather than being added to the diet. When selecting protein foods, nuts and seeds should be unsalted, and meats and poultry should be consumed in lean forms. Processed meats and processed poultry are sources of sodium and saturated fats, and intake of these products can

be accommodated as long as sodium, saturated fats, added sugars, and total calories are within limits in the resulting eating pattern (see the About Meats and Poultry call-out box). The inclusion of protein foods from plants allows vegetarian options to be accommodated.



About Seafood

Seafood, which includes fish and shellfish, received particular attention in the *2010 Dietary Guidelines* because of evidence of health benefits for the general populations as well as for women who are pregnant or breastfeeding. For the general population, consumption of about 8 ounces per week of a variety of seafood, which provide an average consumption of 250 mg per day of EPA and DHA, is associated with reduced cardiac deaths among individuals with and without preexisting CVD. Similarly, consumption by women who are pregnant or breastfeeding of at least 8 ounces per week from seafood choices that are sources of DHA is associated with improved infant health outcomes.

The recommendation to consume 8 or more ounces per week (less for young children) of seafood is for the total package of nutrients that seafood provides, including its EPA and DHA content. Some seafood choices with higher amounts of EPA and DHA should be included.

Strong evidence from mostly prospective cohort studies but also randomized controlled trials has shown that eating patterns that include seafood are associated with reduced risk of CVD, and moderate evidence indicates that these eating patterns are associated with reduced risk of obesity. As described earlier, eating patterns consist of multiple, interacting food components and the relationships to health exist for the overall eating pattern, not necessarily to an isolated aspect of the diet.

Mercury is a heavy metal found in the form of methyl mercury in seafood in varying levels. Seafood choices higher in EPA and DHA but lower in methyl mercury are encouraged.^[17] Seafood varieties commonly consumed in the United States that are higher in EPA and DHA and lower in methyl mercury include salmon, anchovies, herring, shad, sardines, Pacific oysters, trout, and Atlantic and Pacific mackerel (*not* king mackerel, which is high in methyl mercury). Individuals who regularly consume more than the recommended amounts of seafood that are in the Healthy U.S-Style Pattern should choose a mix of seafood that emphasizes choices relatively low in methyl mercury.

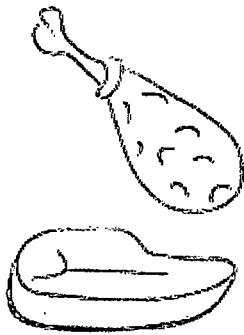
Some canned seafood, such as anchovies, may be high in sodium. To keep sodium intake below recommended limits, individuals can use the Nutrition Facts label to compare sodium amounts.

Women who are pregnant or breastfeeding should consume at least 8 and up to 12 ounces^[18] of a variety of seafood per week, from choices that are lower in methyl mercury. Obstetricians and pediatricians should provide guidance on how to make healthy food choices that include seafood. Women who are pregnant or breastfeeding and young children should not eat certain types of fish that are high in methyl mercury.^[19]

[17] State and local advisories provide information to guide consumers who eat fish caught from local waters. See the EPA website, "Fish Consumption Advisories, General Information." Available at: <http://water.epa.gov/scitech/swguidance/fishshellfish/fishadvisories/general.cfm>. Accessed September 26, 2015.

[18] Cooked, edible portion

[19] The U.S. Food and Drug Administration (FDA) and the U.S. Environmental Protection Agency (EPA) provide joint guidance regarding seafood consumption for women who are pregnant or breastfeeding and young children. For more information, see the FDA and EPA websites www.FDA.gov/foodadvice www.EPA.gov/fishadvice.



About Meats & Poultry

Meat, also known as red meat, includes all forms of beef, pork, lamb, veal, goat, and non-bird game (e.g., venison, bison, and elk). Poultry includes all forms of chicken, turkey, duck, geese, guineas, and game birds (e.g., quail and pheasant). Meats and poultry vary in fat content and include both fresh and processed forms. Lean meats and poultry contain less than 10 g of fat, 4.5 g or less of saturated fats, and less than 95 mg of cholesterol per 100 g and per labeled serving size (e.g., 95% lean ground beef, pork tenderloin, and skinless chicken or turkey breast). Processed meats and processed poultry (e.g., sausages, luncheon meats, bacon, and beef jerky) are products preserved by smoking, curing, salting, and/or the addition of chemical preservatives.

Strong evidence from mostly prospective cohort studies but also randomized controlled trials has shown that *eating patterns* that include lower intake of meats as well as processed meats and processed poultry are associated with reduced risk of CVD in adults. Moderate evidence indicates that these *eating patterns* are associated with reduced risk of obesity, type 2 diabetes, and some types of cancer in adults. As described earlier, eating patterns consist of multiple, interacting food components, and the relationships to health exist for the overall eating pattern, not necessarily to an isolated aspect of the diet. Much of this research on eating patterns has grouped together all meats and poultry, regardless of fat content or processing, though some evidence has identified lean meats and lean poultry in healthy eating patterns. In separate analyses, food pattern modeling has demonstrated that lean meats and lean poultry can contribute important nutrients within limits for sodium, calories from saturated fats and added sugars, and total calories when consumed in recommended amounts in healthy eating patterns, such as the Healthy U.S.-Style and Mediterranean-Style Eating Patterns.

The recommendation for the meats, poultry, and eggs subgroup in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 26 ounce-equivalents per week. This is the same as the amount that was in the primary USDA Food Patterns of the 2010 *Dietary Guidelines*. As discussed in Chapter 2, average intakes of meats, poultry, and eggs for teen boys and adult men are above recommendations in the Healthy U.S.-Style Eating Pattern. For those who eat animal products, the recommendation for the protein foods subgroup of meats, poultry, and eggs can be met by consuming a variety of lean meats, lean poultry, and eggs. Choices within these eating patterns may include processed meats and processed poultry as long as the resulting eating pattern is within limits for sodium, calories from saturated fats and added sugars, and total calories.

Oils

Healthy Intake: Oils are fats that contain a high percentage of monounsaturated and polyunsaturated fats and are liquid at room temperature. Although they are not a food group, oils are emphasized as part of healthy eating patterns because they are the major source of essential fatty acids and vitamin E. Commonly consumed oils extracted from plants include canola, corn, olive, peanut, safflower, soybean, and sunflower oils. Oils also are naturally present in nuts, seeds,

seafood, olives, and avocados. The fat in some tropical plants, such as coconut oil, palm kernel oil, and palm oil, are not included in the oils category because they do not resemble other oils in their composition. Specifically, they contain a higher percentage of saturated fats than other oils (see Dietary Fats: The Basics call-out box). The recommendation for oils in the Healthy U.S.-Style Eating Pattern at the 2,000-calorie level is 27 g (about 5 teaspoons) per day.

Key Nutrient Contributions: Oils provide essential fatty acids and vitamin E.

Considerations: Oils are part of healthy eating patterns, but because they are a concentrated source of calories, the amount consumed should be within the AMDR for total fats without exceeding calorie limits. Oils should replace solid fats rather than being added to the diet. More information on choices of fats is provided in the Dietary Fats: The Basics call-out box, and information on the relationship between dietary fats and health is discussed in the Saturated Fats, *Trans* Fats, and Cholesterol section.