Maryland
DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 28, 2024

The Honorable Joseline A. Pena-Melnyk
Chair, Health and Government Operations Committee
Room 241 House Office Building
Annapolis, MD 21401-1991

RE: House Bill 739 - Maryland Department of Health - List of Diet Pills (Weight Loss Supplement Identification) - Letter of Opposition

Dear Chair Pena-Melnyk and Committee members:

The Maryland Department of Health (Department) submits this letter of opposition for House Bill (HB) 739 - Maryland Department of Health - List of Diet Pills (Weight Loss Supplement Identification). HB 739 will require the Department to create a publicly-accessible list of diet pills and update the list on a quarterly basis.

Diet pills and supplements are over-the-counter products that claim to help an individual lose weight or build muscle through curbing appetite, speeding up metabolism, burning fat, and other mechanisms. Historically, diet pills and supplements have been regulated as food items rather than drugs, subjecting them to less oversight and regulation.[1] However, these products often contain a mix of ingredients like caffeine, herbs, extracts, and synthetic substances that are not individually regulated by the federal Food and Drug Administration (FDA). Recent reports have linked the use of some dietary supplements to eating disorders, but the extent of the problem, and the scale of adverse health outcomes that can be attributed to diet pills, is not known.[2,3,4]

The Department has several concerns about HB 739. First, the broad definition of "diet pills" in HB 739 potentially includes every substance marketed as a diet pill or supplement, not just those that can cause harmful biological effects. The definition of "dietary supplement" laid out in federal law under 21 U.S.C. § 321 indicates that a dietary "pill" or supplement can include vitamins, minerals, amino acids, and herbs. Determining what is considered a diet pill would involve judgment on the part of the Department. Since there is currently no list, the Department would have to label every substance claiming to be a "diet pill" which could have the unintended effect of legitimizing these substances.

[1] https://www.fda.gov/consumers/consumer-updates/dietary-supplements
[2] Levinson JA, Sarda V, Sonneville K, et al. Diet Pill and Laxative Use for Weight Control and Subsequent Incident Eating Disorder in US Young Women: 2001-2016. Am J Public Health. 2020 Jan;110(1):109-111. doi: 10.2105/AJPH.2019.305390. Epub 2019 Nov 21. PMID: 31751147; PMCID: PMC6893330.
[3] Ghaderi A, Welch E. Appearance and Performance-Enhancing Drugs and Supplements, Eating Disorders Symptoms, Drive for Muscularity, and Sexual Orientation in a Sample of Young Men. Nutrients. 2022 Nov 21;14(22):4920. doi: 10.3390/nu14224920. PMID: 36432606; PMCID: PMC9695459.
[4] Nagata JM, McGuire FH, Lavender JM, et al. Appearance and performance-enhancing drugs and supplements, eating disorders, and muscle dysmorphia among gender minority people. Int J Eat Disord. 2022 May;55(5):678-687. doi: 10.1002/eat.23708. Epub

2022 Mar 30. PMID: 35352378; PMCID: PMC9106876.

The Department is also concerned about potential subject matter expertise requirements of the bill. Because the federal government regulates these products, the Department does not have any dedicated subject matter experts in this area of policy, and if enacted, HB 739 will necessitate the establishment of an additional unit with appropriate expertise within the Department to meet the requirements of the bill. Without such a unit, the Department would be required to rely simply on the current marketing or labeling of these products, a reliance that could lead to either missing some potentially harmful products or listing otherwise harmless products incorrectly. Moreover, such a reliance on marketing or labeling, rather than ingredients, could encourage producers to manipulate their labels or marketing in an effort to avoid regulation.

Since there is currently no requirement for vendors to report selling of diet pills in the state, it is unclear how a list of such items sold in the state would be developed by the Department for quarterly maintenance. To produce such a list would involve extensive resources and reporting.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

Laura Herrera Scott, M.D., M.P.H.
Secretary