

HOUSE BILL 353

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2004 Regular Session
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CF 4lr0764

By: **Delegate Hurson (Chairman, Health and Government Operations
Committee)**

Introduced and read first time: January 28, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dietetic Practice - Sunset Extension and Program Evaluation**

3 FOR the purpose of continuing the State Board of Dietetic Practice in accordance with
4 the provisions of the Maryland Program Evaluation Act (Sunset Law) by
5 extending to a certain date the termination of provisions relating to the
6 statutory and regulatory authority of the Board; altering the composition of the
7 Board; altering the nomination process for licensed Board member vacancies;
8 eliminating separate licenses for dietitians and nutritionists; creating a single
9 license for the practice of dietetics; altering certain requirements for licensure;
10 altering certain prohibitions against using certain titles, words, or terms under
11 certain circumstances; requiring that an evaluation of the Board and the
12 statutes and regulations that relate to the Board be performed on or before a
13 certain date; requiring the Board and the Department of Health and Mental
14 Hygiene to submit a certain report to certain committees on or before a certain
15 date; providing continuity for the remainder of the terms for certain Board
16 members; providing continuity of licensure for certain licensed dietitians and
17 licensed nutritionists; providing for renewal of certain licensed dietitians and
18 licensed nutritionists as licensed dietitian-nutritionists; providing for
19 reinstatement as a licensed dietitian-nutritionist for certain licensed dietitians
20 and licensed nutritionists; defining certain terms; altering certain definitions;
21 and generally relating to the State Board of Dietetic Practice.

22 BY repealing and reenacting, with amendments,
23 Article - Health Occupations
24 Section 5-101, 5-102, 5-202, 5-205, 5-301 through 5-303, 5-309, 5-314, 5-402,
25 5-501, and 5-502 to be under the amended title "Title 5. Licensed
26 Dietitian-Nutritionists"
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2003 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Health Occupations
31 Section 5-103, 5-201, 5-203, 5-204, 5-206, 5-304 through 5-308, 5-310

1 through 5-313, 5-401, and 5-403
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2003 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - State Government
6 Section 8-403(a)
7 Annotated Code of Maryland
8 (1999 Replacement Volume and 2003 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - State Government
11 Section 8-403(b)(18)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2003 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Health Occupations**

17 Title 5. [Dietitians and Licensed Nutritionists] LICENSED
18 DIETITIAN-NUTRITIONISTS.

19 5-101.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Board" means the State Board of Dietetic Practice.

22 (C) "CERTIFIED NUTRITION SPECIALIST" MEANS AN INDIVIDUAL CERTIFIED
23 BY THE CERTIFICATION BOARD FOR NUTRITION SPECIALISTS, THE ACCREDITING
24 BODY OF THE AMERICAN COLLEGE OF NUTRITION.

25 [(c)] (D) ["Dietitian"] "DIETITIAN-NUTRITIONIST" means, unless the context
26 requires otherwise, an individual who is licensed by the Board to practice dietetics.

27 [(d) "Licensed nutritionist" means, unless the context requires otherwise, an
28 individual who is licensed by the Board to practice dietetics.]

29 (e) "License" means, unless the context requires otherwise, a license issued by
30 the Board to practice dietetics.

31 (f) (1) "Practice dietetics" means to apply the principles derived from
32 integrating knowledge of food, biochemistry, physiology, management science,
33 behavioral science, and social science to human nutrition.

34 (2) "Practice dietetics" includes:

- 1 (i) Assessing individual and community food practices and
2 nutritional status using anthropometric, biochemical, clinical, dietary, and
3 demographic data, for clinical, research, and program planning purposes;
- 4 (ii) Developing, establishing, and evaluating nutritional care plans
5 that establish priorities, goals, and objectives for meeting nutrient needs for
6 individuals or groups;
- 7 (iii) Nutrition counseling and education as a part of preventive or
8 restorative health care throughout the life cycle;
- 9 (iv) Determining, applying, and evaluating standards for food and
10 nutrition services; and
- 11 (v) Applying scientific research to the role of food in the
12 maintenance of health and the treatment of disease.

13 (G) "REGISTERED DIETITIAN" MEANS AN INDIVIDUAL REGISTERED WITH THE
14 COMMISSION ON DIETETIC REGISTRATION, THE ACCREDITING BODY OF THE
15 AMERICAN DIETETIC ASSOCIATION.

16 5-102.

17 The purpose of this title is to protect the lives and health of the people of this
18 State by:

- 19 (1) Setting standards for the practice of dietetics; and
- 20 (2) Limiting the use of the title "licensed [dietitian" and "licensed
21 nutritionist"] DIETITIAN-NUTRITIONIST" to individuals who meet those standards.

22 5-103.

23 (a) This title does not limit the right of an individual to practice a health
24 occupation that the individual is authorized to practice under this article.

25 (b) This title does not limit the right of an individual or group to provide
26 services and information related to nonmedical nutrition while:

- 27 (1) Employed by or operating a health, weight loss, or fitness program;
- 28 (2) Employed by or operating a health food store;
- 29 (3) Employed by or operating a business that sells health products
30 including dietary supplements, food, or food materials, or provides nonmedical
31 nutritional information or distributes nutritional literature; or
- 32 (4) Conducting classes or disseminating information related to
33 nonmedical nutrition.

1 (c) This title does not limit the right of an individual to provide services
2 related only to the purchasing, preparation, and service of food to groups of people.

3 (d) This title does not limit the right of an individual to provide nonmedical
4 nutritional information or to distribute nutritional literature.

5 5-201.

6 There is a State Board of Dietetic Practice in the Department.

7 5-202.

8 (a) (1) The Board consists of nine members.

9 (2) Of the nine Board members:

10 (i) Seven shall be [dietitians or nutritionists]
11 DIETITIAN-NUTRITIONISTS licensed on or after [July 1, 1986] JULY 1, 2004 to
12 practice dietetics in Maryland, including:

13 1. One member who is engaged primarily in clinical dietetic
14 practice;

15 2. One member who is engaged primarily in community or
16 public health dietetic practice;

17 3. One member who is engaged primarily in administrative
18 dietetic practice;

19 4. One member who is engaged primarily in consulting
20 dietetic practice;

21 5. One member who is a faculty member in the field of
22 dietetics or nutritional science; and

23 6. Two members who are [licensed nutritionists] CERTIFIED
24 NUTRITION SPECIALISTS and who may not be registered dietitians; and

25 (ii) Two shall be consumer members.

26 (3) [(i)] The Governor shall appoint the [dietitian and licensed
27 nutritionist] LICENSED DIETITIAN-NUTRITIONIST members with the advice of the
28 Secretary and with the advice and consent of the Senate from a list submitted [by the
29 Maryland Dietetic Association and the Maryland Chapter of the American
30 Nutritionists Association] AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

31 [(ii)] The list of qualified nominees submitted to the Secretary for
32 appointment under subparagraph (i) of this paragraph shall be at least three times
33 the number of vacancies.

1 (4) For each dietitian or licensed nutritionist vacancy, the Maryland
2 Dietetic Association and the Maryland Chapter of the American Nutritionists
3 Association shall:

4 (i) Notify all dietitians and licensed nutritionists in the State of the
5 vacancy to solicit nominations to fill the vacancy; and

6 (ii) Conduct a balloting process where every dietitian and licensed
7 nutritionist is eligible to vote to select the names of the nominees that will be
8 submitted to the Governor.

9 (5) The Governor shall appoint the consumer members with the advice of
10 the Secretary and the advice and consent of the Senate.]

11 (B) (1) FOR EACH LICENSED DIETITIAN-NUTRITIONIST VACANCY, THE
12 BOARD SHALL COMPILE A LIST OF NAMES TO BE SUBMITTED TO THE SECRETARY IN
13 ACCORDANCE WITH THIS SUBSECTION, INCLUDING AT LEAST THREE NAMES FOR
14 EACH OF THE VACANCIES.

15 (2) THE BOARD SHALL NOTIFY ALL LICENSED
16 DIETITIAN-NUTRITIONISTS IN THE STATE OF THE VACANCY TO SOLICIT
17 NOMINATIONS TO FILL THE VACANCY.

18 (3) THE MARYLAND DIETETIC ASSOCIATION OR THE MARYLAND
19 NUTRITIONISTS ASSOCIATION SHALL NOMINATE QUALIFIED INDIVIDUALS TO FILL
20 THE VACANCY WITHIN 30 DAYS AFTER THE NOTICE REQUIRED IN PARAGRAPH (2) OF
21 THIS SUBSECTION IS GIVEN.

22 (4) THE MARYLAND DIETETIC ASSOCIATION MAY COMMENT ON AN
23 INDIVIDUAL NOMINATED BY THE MARYLAND NUTRITIONISTS ASSOCIATION UNDER
24 PARAGRAPH (3) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND
25 BEFORE THE LIST IS SUBMITTED TO THE SECRETARY.

26 (5) THE MARYLAND NUTRITIONISTS ASSOCIATION MAY COMMENT ON
27 AN INDIVIDUAL NOMINATED BY THE MARYLAND DIETETIC ASSOCIATION UNDER
28 PARAGRAPH (3) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND
29 BEFORE THE LIST IS SUBMITTED TO THE SECRETARY.

30 [(b)] (C) (1) Each [dietitian or licensed nutritionist] LICENSED
31 DIETITIAN-NUTRITIONIST member of the Board shall:

32 (i) Be a citizen of the United States;

33 (ii) Be a resident of the State; and

34 (iii) Have practiced dietetics for at least 5 of the last 10 years.

35 (2) The consumer member of the Board:

36 (i) Shall be a citizen of the United States;

- 1 (ii) Shall be a resident of this State;
- 2 (iii) May not be a [dietitian or licensed nutritionist] LICENSED
3 DIETITIAN-NUTRITIONIST or have [any] A household [members] MEMBER who [are
4 dietitians or licensed nutritionists] IS A LICENSED DIETITIAN-NUTRITIONIST;
- 5 (iv) May not have a financial interest in the provision of goods or
6 services to [dietitians or licensed nutritionists] LICENSED
7 DIETITIAN-NUTRITIONISTS; and
- 8 (v) May not have a financial interest in the provision of dietary
9 goods or services to consumers.

10 [(c)] (D) (1) The term of a member is 4 years.

11 (2) The terms of the members are staggered as required by the terms
12 provided for members of the Board on July 1, 1985.

13 (3) At the end of a term, a member continues to serve until a successor is
14 appointed and qualifies.

15 (4) A member who is appointed after a term has begun serves only for
16 the rest of the term and until a successor is appointed and qualifies.

17 (5) To the extent practicable, the Governor shall fill any vacancy on the
18 Board within [60] 75 days of the date of the vacancy.

19 (6) A member may not serve more than 2 consecutive full terms.

20 [(d)] (E) Upon the recommendation of the Secretary, the Governor may
21 remove a member whom the Secretary finds to have been absent from 2 successive
22 Board meetings without adequate reason.

23 5-203.

24 (a) From among its members, the Board annually shall elect a chairman, a
25 vice chairman, and a secretary.

26 (b) The Board shall determine:

27 (1) The manner of election of officers; and

28 (2) The duties of each officer.

29 5-204.

30 (a) A majority of the full authorized membership of the Board is a quorum.

31 (b) The Board shall determine the times and places of its meetings.

32 (c) A member of the Board:

- 1 (1) May not receive compensation; but
- 2 (2) Is entitled to reimbursement for expenses at a rate determined by the
3 Board.
- 4 (d) The Board may employ a staff in accordance with the budget of the Board.
5 5-205.
- 6 (a) In addition to the powers set forth elsewhere in this subtitle, the Board
7 may:
- 8 (1) Adopt regulations to carry out the provisions of this subtitle; and
- 9 (2) Sue to enforce any provision of this subtitle by injunction.
- 10 (b) In addition to the duties set forth elsewhere in this subtitle, the Board
11 shall:
- 12 (1) Keep a list of all [dietitians and nutritionists]
13 DIETITIAN-NUTRITIONISTS who are currently licensed;
- 14 (2) Keep a record of its proceedings; and
- 15 (3) Submit an annual report of its transactions for the previous fiscal
16 year to the Governor by September 30 of each year.
- 17 5-206.
- 18 (a) There is a State Board of Dietetic Practice Fund.
- 19 (b) (1) The Board may set reasonable fees for the issuance and renewal of
20 licenses.
- 21 (2) The fees charged shall be set so as to approximate the cost of
22 maintaining the Board.
- 23 (3) Funds to cover the expenses of the Board members shall be generated
24 by fees set under this section.
- 25 (c) (1) The Board shall pay all funds collected under this title to the
26 Comptroller of the State.
- 27 (2) The Comptroller shall distribute the funds to the State Board of
28 Dietetic Practice Fund.
- 29 (d) (1) The Fund shall be used to cover the actual documented direct and
30 indirect costs of fulfilling the statutory and regulatory duties of the Board as provided
31 by the provisions of this article.

1 (2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of
2 the State Finance and Procurement Article.

3 (3) Any unspent portions of the Fund may not be transferred or revert to
4 the General Fund of the State, but shall remain in the Fund to be used for the
5 purposes specified in this article.

6 (4) No other State money may be used to support the Fund.

7 (e) (1) A designee of the Board shall administer the Fund.

8 (2) Moneys in the Fund may be expended only for any lawful purpose
9 authorized under the provisions of this article.

10 (f) The Legislative Auditor shall audit the accounts and transactions of the
11 Fund as provided in § 2-1220 of the State Government Article.

12 5-301.

13 (a) Except as otherwise provided in this subtitle, an individual shall be
14 licensed by the Board before the individual may practice dietetics in the State.

15 (b) The following individuals may practice dietetics without a license:

16 (1) A student or trainee, working under the direct or indirect supervision
17 of a licensed [dietitian or a licensed nutritionist] DIETITIAN-NUTRITIONIST while
18 fulfilling an experience requirement or pursuing a course of study to meet
19 requirements for licensure, for a limited period of time as determined by the Board.

20 (2) An individual employed by the United States government [as a
21 dietitian or nutritionist] TO PRACTICE DIETETICS, while practicing within the scope
22 of that employment.

23 (3) An individual who aids in the practice of dietetics, if the individual
24 works under the direct or indirect supervision of a licensed [dietitian or licensed
25 nutritionist] DIETITIAN-NUTRITIONIST or licensed physician.

26 (4) A registered dietitian who has recently become a resident of this
27 State, or is a resident of this State but is not licensed, and who:

28 (i) Has applied for licensure; and

29 (ii) Has not had a license application denied in this State.

30 (c) Subject to regulations adopted by the Board, an individual may practice
31 dietetics without a license if the individual:

32 (1) Has met the academic and experience requirements to be a licensed
33 [dietitian or licensed nutritionist] DIETITIAN-NUTRITIONIST;

34 (2) Has applied for or taken the licensing examination; and

1 (3) Is awaiting notification of the examination results.

2 5-302.

3 (a) To qualify for a license, an applicant shall be an individual who meets the
4 requirements of this section.

5 (b) The applicant must be of good moral character.

6 (c) The applicant must be at least 18 years old.

7 (d) The applicant for licensure as a [dietitian] DIETITIAN-NUTRITIONIST
8 shall:

9 (1) (i) Have satisfactorily completed academic requirements for the
10 field of dietetics as approved by the Board;

11 (ii) Have received a baccalaureate degree or a higher degree from a
12 college or university approved by the Board; and

13 (iii) Have satisfactorily completed a program of supervised clinical
14 experience approved by the Commission on Dietetic Registration of the American
15 Dietetic Association, or a comparable experience approved by the Board;

16 [(2) Submit to the Board proof of registration through the Commission on
17 Dietetic Registration of the American Dietetic Association; or

18 (3) Meet the requirements of subsection (e)(2) or (3) of this section.

19 (e) The applicant for licensure as a licensed nutritionist shall:

20 (1) Meet the requirements of subsection (d)(1) or (2) of this section;]

21 (2) (i) Have received a master's or doctoral degree from a college or
22 university accredited by a regional accrediting body recognized by the Council on
23 Post-Secondary Accreditation in nutritional sciences (with emphasis in human
24 nutrition), food and nutrition, dietetics, human nutrition, community nutrition,
25 public health nutrition, or equivalent training approved by the Board; and

26 (ii) Have satisfactorily completed a Board approved experience
27 component in dietetic or nutritionist practice which:

28 1. Consists of not less than 900 hours; and

29 2. Includes the human clinical experience gained while
30 completing a master's or doctoral degree; [or]

31 (3) SUBMIT TO THE BOARD PROOF OF REGISTRATION THROUGH THE
32 COMMISSION ON DIETETIC REGISTRATION OF THE AMERICAN DIETETIC
33 ASSOCIATION; OR

1 [(3)] (4) Have satisfactorily completed the academic and experience
2 requirements of the Certification Board for Nutrition Specialists and submit to the
3 Board proof of certification by the Certification Board for Nutrition Specialists.

4 [(f)] (E) Except as otherwise provided in this subtitle, the applicant must pass
5 an examination approved by the Board under this subtitle.

6 [(g)] (F) The applicant shall meet any other qualifications or requirements
7 that the Board establishes for license applicants.

8 5-303.

9 (a) An applicant for a license shall:

10 (1) Submit an application to the Board on the form that the Board
11 requires;

12 (2) Pay the application fee set by the Board; and

13 (3) Provide proof of passing an examination approved by the Board.

14 (b) In addition to any other requirements of this section, an applicant who is
15 or has been licensed TO PRACTICE DIETETICS in another state or country shall submit
16 proof of good standing [as a licensed dietitian or licensed nutritionist] in that state or
17 country or proof of eligibility for a license in good standing in that state or country.

18 5-304.

19 The Board shall determine the passing score for the examination approved.

20 5-305.

21 (a) Subject to the provisions of this section, the Board may waive an
22 examination requirement of this title for an individual who:

23 (1) Is licensed to practice dietetics in another state or country; or

24 (2) Is registered to practice dietetics by the Commission on Dietetic
25 Registration of the American Dietetic Association.

26 (b) The Board may grant a waiver under this section only if the applicant:

27 (1) Pays the application fee set by the Board under § 5-206 of this title;
28 and

29 (2) Provides adequate evidence that the applicant:

30 (i) Meets the qualifications otherwise required by this subtitle; and

1 (ii) 1. Became licensed in the other state or country after
2 passing, in that state or country, an examination that the Board determines to be
3 comparable to the examination for which the applicant is seeking the waiver; or

4 2. Became registered by the Commission on Dietetic
5 Registration of the American Dietetic Association after meeting the examination
6 waiver requirements of that Commission or its predecessor.

7 5-306.

8 (a) If an applicant qualifies for a license under this subtitle, the Board shall
9 send the applicant a notice that specifies that:

10 (1) The applicant has qualified for a license; and

11 (2) On receipt of the license fee set by the Board, the Board will issue a
12 license to the applicant.

13 (b) On payment of the license fee, the Board shall issue a license to any
14 applicant who meets the requirements of this subtitle.

15 (c) The Board shall include on each license that the Board issues:

16 (1) The full name of the licensee;

17 (2) A serial number assigned by the Board to the licensee; and

18 (3) The signature of the chairman of the Board, under seal of the Board.
19 5-307.

20 A license authorizes the licensee to practice dietetics while the license is
21 effective.

22 5-308.

23 (a) (1) Unless the license is renewed for an additional term as provided in
24 this section, a license expires on the date set by the Board.

25 (2) A license may not be renewed for a term longer than 2 years.

26 (b) At least 1 month before the license expires, the Board shall send to the
27 licensee, by first class mail to the last known address of the licensee, a renewal notice
28 that states:

29 (1) The date on which the current license expires;

30 (2) The date by which the Board must receive the renewal application for
31 the renewal to be issued and mailed before the license expires; and

32 (3) The amount of the renewal fee.

1 (c) Before the license expires, the licensee periodically may renew it for an
2 additional 2-year term, if the licensee:

3 (1) Otherwise is entitled to be licensed;

4 (2) Pays to the Board a renewal fee set by the Board; and

5 (3) Submits to the Board:

6 (i) A renewal application on the form that the Board requires; and

7 (ii) Satisfactory evidence of compliance with the continuing
8 education requirements for license renewal set by the Board under this section.

9 (d) In addition to any other qualifications and requirements established by
10 the Board, the Board shall establish continuing education requirements as a
11 condition to the renewal of licenses under this section.

12 (e) The Board shall renew the license of each licensee who meets the
13 requirements of this section.

14 5-309.

15 The Board, in accordance with its regulations, shall reinstate the license of a
16 [dietitian or nutritionist] DIETITIAN-NUTRITIONIST who has failed to renew the
17 license for any reason if the [dietitian or nutritionist] DIETITIAN-NUTRITIONIST:

18 (1) Meets the renewal requirements of § 5-308 of this subtitle;

19 (2) Pays to the Board the reinstatement fee set by the Board; and

20 (3) Submits to the Board satisfactory evidence of compliance with the
21 qualifications and requirements established under this subtitle for license
22 reinstatements.

23 5-310.

24 (a) Each licensee shall produce a valid license when requested to do so by an
25 existing or potential employer or client.

26 (b) Each licensee shall give the Board written notice of any change of address.
27 5-311.

28 Subject to the hearing provisions of § 5-312 of this subtitle, the Board, on the
29 affirmative vote of a majority of its members then serving, may deny a license to any
30 applicant, reprimand any licensee, or suspend or revoke a license if the applicant or
31 licensee:

32 (1) Fraudulently or deceptively obtains or attempts to obtain a license
33 for the applicant or licensee or for another;

- 1 (2) Fraudulently or deceptively uses a license;
- 2 (3) Violates any provision of this title or any regulations adopted under
3 this title;
- 4 (4) Refuses, withholds from, denies, or discriminates against an
5 individual with regard to the provision of professional service for which the licensee is
6 licensed and qualified to render because the individual is HIV positive;
- 7 (5) Commits fraud or deceit in the practice of dietetics;
- 8 (6) Is convicted of or pleads nolo contendere to a felony or to a crime
9 involving moral turpitude, whether or not any appeal or other proceeding is pending
10 to have the conviction or plea set aside;
- 11 (7) Obtains or attempts to obtain a fee through fraud or
12 misrepresentation;
- 13 (8) Employs any person to practice dietetics whose license or certificate
14 to practice a health occupation under this article has been suspended;
- 15 (9) Intentionally uses or promotes or causes the use of any misleading,
16 deceiving, or untruthful advertising matter, or promotional literature, testimonial,
17 guarantee, warranty, label, brand, insignia, or other representation;
- 18 (10) Commits any act of unprofessional conduct, as defined by the rules
19 and regulations of the Board, or violates the code of ethics adopted by the Board;
- 20 (11) Provides professional services while:
 - 21 (i) Under the influence of alcohol; or
 - 22 (ii) Using any narcotic or controlled dangerous substance, as
23 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
24 therapeutic amounts or without valid medical indication;
- 25 (12) Is disciplined by a licensing or disciplinary authority of any other
26 state or country or convicted or disciplined by a court of any other state or country for
27 an act that would be grounds for disciplinary action under this section;
- 28 (13) Practices dietetics with an unauthorized person or supervises or aids
29 an unauthorized person in the practice of dietetics;
- 30 (14) Willfully fails to file or record any report or record as required by law
31 in the practice of dietetics, willfully impedes or obstructs the filing or recording of the
32 report or record, or induces another to fail to file or record the report or record;
- 33 (15) Submits a false statement to collect a fee;
- 34 (16) Is professionally, physically, or mentally incompetent; or

1 (17) Promotes the sale of devices, appliances, or goods to a patient so as to
2 exploit the patient for financial gain.

3 5-312.

4 (a) Except as otherwise provided in § 10-226 of the State Government Article,
5 before the Board takes any action under § 5-311 of this subtitle, it shall give the
6 individual against whom the action is contemplated an opportunity for a hearing
7 before the Board.

8 (b) The Board shall give notice and hold the hearing in accordance with Title
9 10, Subtitle 2 of the State Government Article.

10 (c) The Board may administer oaths in connection with any proceeding under
11 this section.

12 (d) The hearing notice to be given to the individual shall be sent by certified
13 mail to the last known address of the individual at least 14 days before the hearing.

14 (e) The individual may be represented at the hearing by counsel.

15 (f) (1) The Board may issue subpoenas in connection with any proceeding
16 under this section.

17 (2) If a person fails to comply with a subpoena issued under this
18 subsection, on petition of the Board, the circuit court may compel obedience to the
19 subpoena.

20 5-313.

21 (a) Except as otherwise provided in this section for an action under § 5-311 of
22 this title, any person aggrieved by a final decision of the Board in a contested case, as
23 defined in the Administrative Procedure Act, may:

24 (1) Appeal that decision to the Board of Review; and

25 (2) Then take any further appeal allowed by the Administrative
26 Procedure Act.

27 (b) (1) Any person aggrieved by a final decision of the Board under § 5-311
28 of this title may not appeal to the Secretary or the Board of Review but may take a
29 direct judicial appeal.

30 (2) The appeal shall be made pursuant to the provisions on judicial
31 review of final decisions in Title 10, Subtitle 2 of the State Government Article.

32 5-314.

33 (a) In this section, "dietetic rehabilitation committee" means a committee
34 that:

- 1 (1) Is defined in subsection (b) of this section; and
2 (2) Performs any of the functions listed in subsection (d) of this section.

3 (b) For purposes of this section, a dietetic rehabilitation committee is a
4 committee of the Board or a committee:

- 5 (1) Composed equally of members of:
6 (i) The Maryland Dietetic Association; and
7 (ii) The American Nutritionists Association;
8 (2) Recognized by the Board; and
9 (3) That includes but is not limited to [dietitians and nutritionists]
10 DIETITIAN-NUTRITIONISTS.

11 (c) A rehabilitation committee of the Board or recognized by the Board may
12 function:

- 13 (1) Solely for the Board; or
14 (2) Jointly with a rehabilitation committee representing another board
15 or boards.

16 (d) For purposes of this section, a dietetic rehabilitation committee evaluates
17 and provides assistance to any [dietitian, nutritionist,] DIETITIAN-NUTRITIONIST
18 and any other individual regulated by the Board in need of treatment and
19 rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
20 emotional, or mental condition.

21 (e) (1) Except as otherwise provided in this subsection, the proceedings,
22 records, and files of the dietetic rehabilitation committee are not discoverable and are
23 not admissible in evidence in any civil action arising out of matters that are being or
24 have been reviewed and evaluated by the dietetic rehabilitation committee.

25 (2) Paragraph (1) of this subsection does not apply to any record or
26 document that is considered by the dietetic rehabilitation committee and that
27 otherwise would be subject to discovery or introduction into evidence in a civil action.

28 (3) For purposes of this subsection, civil action does not include a
29 proceeding before the Board or judicial review of a proceeding before the Board.

30 (f) A person who acts in good faith and within the scope of jurisdiction of a
31 dietetic rehabilitation committee is not civilly liable for any action as a member of the
32 dietetic rehabilitation committee or for giving information to, participating in, or
33 contributing to the function of the dietetic rehabilitation committee.

1 5-401.

2 Except as otherwise provided in this title, a person may not practice, attempt to
3 practice, or offer to practice dietetics in the State unless licensed by the Board.

4 5-402.

5 (a) Except as otherwise provided under this title, a person may not represent
6 or imply to the public by use of the title ["licensed dietitian", or "licensed
7 nutritionist"] "LICENSED DIETITIAN-NUTRITIONIST", by other title, by description of
8 services, methods, or procedures that the person is authorized to practice dietetics in
9 the State.

10 (b) Unless authorized to practice dietetics under this title, a person may not
11 use the words or terms "DIETITIAN-NUTRITIONIST", "LICENSED
12 DIETITIAN-NUTRITIONIST", "LDN", "dietitian", "licensed dietitian", "D", "LD",
13 "NUTRITIONIST", "licensed nutritionist", or "LN".

14 5-403.

15 A person who violates § 5-401 or § 5-402 of this subtitle is guilty of a
16 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
17 imprisonment not exceeding 1 year or both.

18 5-501.

19 This title may be cited as the "Maryland [Dietitians and Licensed Nutritionists]
20 LICENSED DIETITIAN-NUTRITIONISTS Act".

21 5-502.

22 Subject to the evaluation and reestablishment provisions of the Maryland
23 Program Evaluation Act, this title and all regulations adopted under this title shall
24 terminate and be of no effect after July 1, [2005] 2015.

25 **Article - State Government**

26 8-403.

27 (a) On or before December 15 of the 2nd year before the evaluation date of a
28 governmental activity or unit, the Legislative Policy Committee, based on a
29 preliminary evaluation, may waive as unnecessary the evaluation required under this
30 section.

31 (b) Except as otherwise provided in subsection (a) of this section, on or before
32 the evaluation date for the following governmental activities or units, an evaluation
33 shall be made of the following governmental activities or units and the statutes and
34 regulations that relate to the governmental activities or units:

1 (18) Dietetic Practice, State Board of (§ 5-201 of the Health Occupations
2 Article: July 1, [2004] 2014);

3 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
4 Dietetic Practice and the Department of Health and Mental Hygiene shall report to
5 the Senate Education, Health, and Environmental Affairs Committee and the House
6 Health and Government Operations Committee on or before October 1, 2004, in
7 accordance with § 2-1246 of the State Government Article, on the implementation of
8 the recommendations of the Department of Legislative Services contained in the
9 sunset evaluation report dated October 2003.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section
11 1 of this Act, a member of the State Board of Dietetic Practice whose term as of June
12 30, 2004 was to terminate after July 1, 2004, shall continue to serve the remainder of
13 the term, or until the member's successor is appointed.

14 SECTION 4. AND BE IT FURTHER ENACTED, That an individual licensed as
15 a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004, in
16 all respects, shall be considered licensed by the State Board of Dietetic Practice and,
17 subject to the provisions of this Act, for the remainder of the term of the individual's
18 license. On expiration of the individual's license, the individual may qualify for
19 renewal of a license under § 5-308 of the Health Occupations Article as if the
20 individual had been licensed as a dietitian-nutritionist by the State Board of Dietetic
21 Practice.

22 SECTION 5. AND BE IT FURTHER ENACTED, That if an individual licensed
23 as a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004
24 fails to timely renew the license, the individual may qualify for reinstatement of the
25 license under § 5-309 of the Health Occupations Article as if the individual had been
26 licensed as a dietitian-nutritionist by the State Board of Dietetic Practice.

27 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2004.