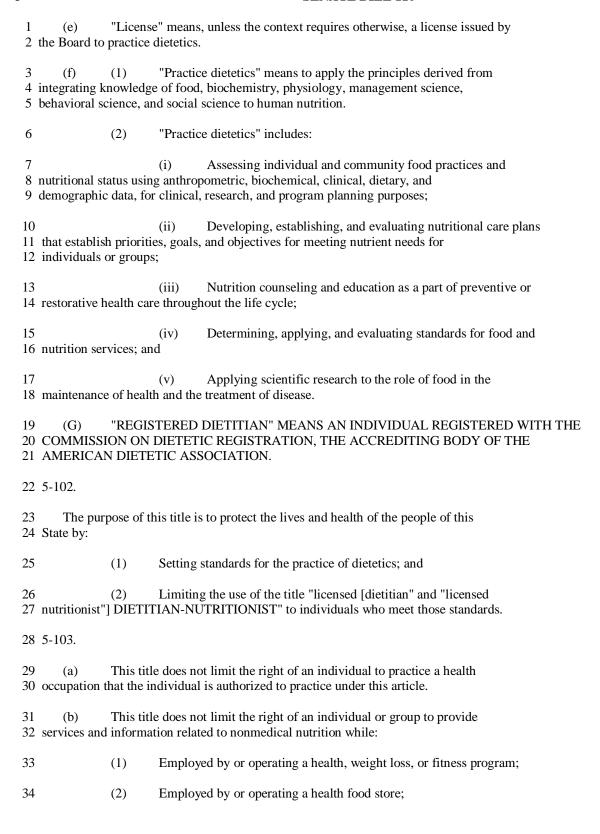
Unofficial Copy J2 2004 Regular Session 4lr0764 CF 4lr1593

By: Senator Hollinger (Chairman, Education, Health, and Environmental Affairs Committee)					
Introduced and read first time: January 21, 2004 Assigned to: Education, Health, and Environmental Affairs					
				Committee Report: Favorable with amendments	
Senate action: Adopted Read second time: March 2, 2004					
					CHAPTER
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
- 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;
- altering certain prohibitions against using certain titles, words, or terms under
- certain circumstances; requiring that an evaluation of the Board and the
- statutes and regulations that relate to the Board be performed on or before a
- 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
- date; providing continuity for the remainder of the terms for certain Board
- 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
- reinstatement as a licensed dietitian-nutritionist for certain licensed dietitians
- 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"

1 2	Annotated Code of Maryland (2000 Replacement Volume and 2003 Supplement)		
3 4 5 6 7 8	BY repealing and reenacting, without amendments, Article - Health Occupations Section 5-103, 5-201, 5-203, 5-204, 5-206, 5-304 through 5-308, 5-310 through 5-313, 5-401, and 5-403 Annotated Code of Maryland (2000 Replacement Volume and 2003 Supplement)		
9 10 11 12 13	Section 8-403(a) Annotated Code of Maryland		
14 15 16 17 18	Section 8-403(b)(18) Annotated Code of Maryland		
19 20	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:		
21	Article - Health Occupations		
22 23	Title 5. [Dietitians and Licensed Nutritionists] LICENSED DIETITIAN-NUTRITIONISTS.		
24	5-101.		
25	(a) In this subtitle the following words have the meanings indicated.		
26	(b) "Board" means the State Board of Dietetic Practice.		
	(C) "CERTIFIED NUTRITION SPECIALIST" MEANS AN INDIVIDUAL CERTIFIED BY THE CERTIFICATION BOARD FOR NUTRITION SPECIALISTS, THE ACCREDITING BODY OF THE AMERICAN COLLEGE OF NUTRITION.		
30 31	[(c)] (D) ["Dietitian"] "DIETITIAN-NUTRITIONIST" means, unless the context requires otherwise, an individual who is licensed by the Board to practice dietetics.		
32 33	[(d) "Licensed nutritionist" means, unless the context requires otherwise, an individual who is licensed by the Board to practice dietetics.]		



	(3) Employed by or operating a business that sells health products including dietary supplements, food, or food materials, or provides nonmedical nutritional information or distributes nutritional literature; or
4 5	(4) Conducting classes or disseminating information related to nonmedical nutrition.
6 7	(c) This title does not limit the right of an individual to provide services related only to the purchasing, preparation, and service of food to groups of people.
8 9	(d) This title does not limit the right of an individual to provide nonmedical nutritional information or to distribute nutritional literature.
10	5-201.
11	There is a State Board of Dietetic Practice in the Department.
12	5-202.
13	(a) (1) The Board consists of nine members.
14	(2) Of the nine Board members:
	(i) Seven shall be [dietitians or nutritionists] DIETITIAN-NUTRITIONISTS licensed on or after [July 1, 1986] JULY 1, 2004 to practice dietetics in Maryland, including:
18 19	1. One member who is engaged primarily in clinical dietetic practice;
20 21	2. One member who is engaged primarily in community or public health dietetic practice;
22 23	3. One member who is engaged primarily in administrative dietetic practice;
24 25	4. One member who is engaged primarily in consulting dietetic practice;
26 27	5. One member who is a faculty member in the field of dietetics or nutritional science; and
28 29	6. Two members who are [licensed nutritionists] CERTIFIED NUTRITION SPECIALISTS and who may not be registered dietitians; and
30	(ii) Two shall be consumer members.
	(3) [(i)] The Governor shall appoint the [dietitian and licensed nutritionist] LICENSED DIETITIAN-NUTRITIONIST members with the advice of the Secretary and with the advice and consent of the Senate from a list submitted [by the

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(i)

1 Maryland Dietetic Association and the Maryland Chapter of the American 2 Nutritionists Association] AS PROVIDED IN SUBSECTION (B) OF THIS SECTION. 3 [(ii)]The list of qualified nominees submitted to the Secretary for 4 appointment under subparagraph (i) of this paragraph shall be at least three times 5 the number of vacancies. 6 For each dietitian or licensed nutritionist vacancy, the Maryland 7 Dietetic Association and the Maryland Chapter of the American Nutritionists 8 Association shall: 9 Notify all dietitians and licensed nutritionists in the State of the (i) 10 vacancy to solicit nominations to fill the vacancy; and 11 (ii) Conduct a balloting process where every dietitian and licensed 12 nutritionist is eligible to vote to select the names of the nominees that will be 13 submitted to the Governor. ] 14 The Governor shall appoint the consumer members with the (5)<u>(4)</u> 15 advice of the Secretary and the advice and consent of the Senate. FOR EACH LICENSED DIETITIAN-NUTRITIONIST VACANCY. THE 16 17 BOARD SHALL COMPILE A LIST OF NAMES TO BE SUBMITTED TO THE SECRETARY IN 18 ACCORDANCE WITH THIS SUBSECTION, INCLUDING AT LEAST THREE NAMES FOR 19 EACH OF THE VACANCIES. 20 THE BOARD SHALL NOTIFY ALL LICENSED 21 DIETITIAN-NUTRITIONISTS IN THE STATE OF THE VACANCY TO SOLICIT 22 NOMINATIONS TO FILL THE VACANCY. 23 THE MARYLAND DIETETIC ASSOCIATION OR THE MARYLAND 24 NUTRITIONISTS ASSOCIATION SHALL NOMINATE QUALIFIED INDIVIDUALS TO FILL 25 THE VACANCY WITHIN 30 DAYS AFTER THE NOTICE REQUIRED IN PARAGRAPH (2) OF 26 THIS SUBSECTION IS GIVEN. 27 THE MARYLAND DIETETIC ASSOCIATION MAY COMMENT ON AN 28 INDIVIDUAL NOMINATED BY THE MARYLAND NUTRITIONISTS ASSOCIATION UNDER 29 PARAGRAPH (3) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND 30 BEFORE THE LIST IS SUBMITTED TO THE SECRETARY. THE MARYLAND NUTRITIONISTS ASSOCIATION MAY COMMENT ON 31 (5) 32 AN INDIVIDUAL NOMINATED BY THE MARYLAND DIETETIC ASSOCIATION UNDER 33 PARAGRAPH (3) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE NOMINATION AND 34 BEFORE THE LIST IS SUBMITTED TO THE SECRETARY. 35 Each [dietitian or licensed nutritionist] LICENSED (1) 36 DIETITIAN-NUTRITIONIST member of the Board shall:

Be a citizen of the United States;

From among its members, the Board annually shall elect a chairman, a

The manner of election of officers; and

The duties of each officer.

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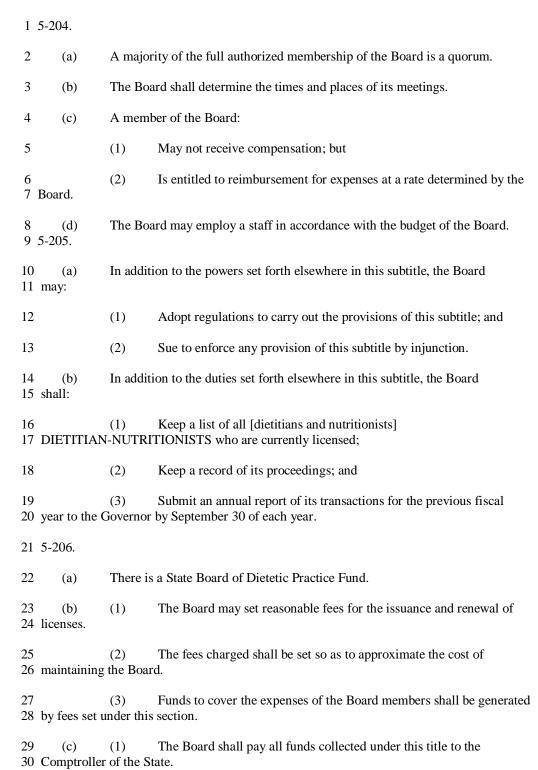
(b)

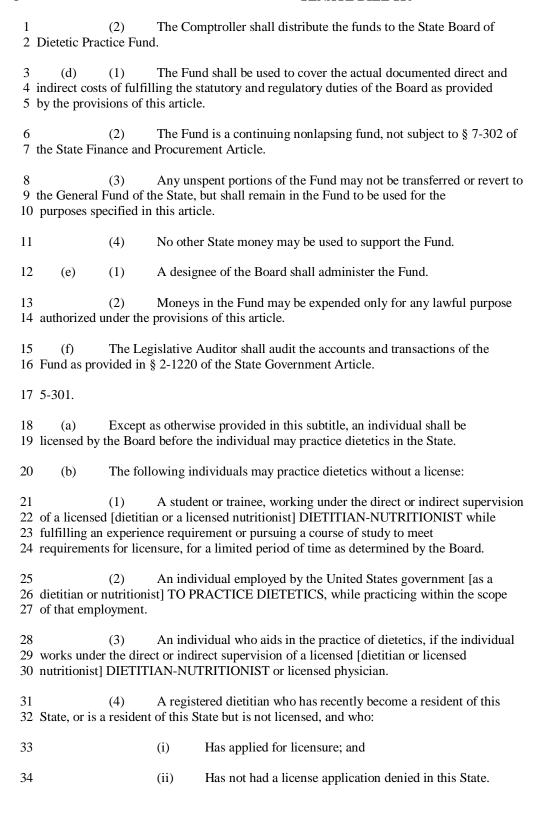
29 vice chairman, and a secretary.

(1)

(2)

The Board shall determine:





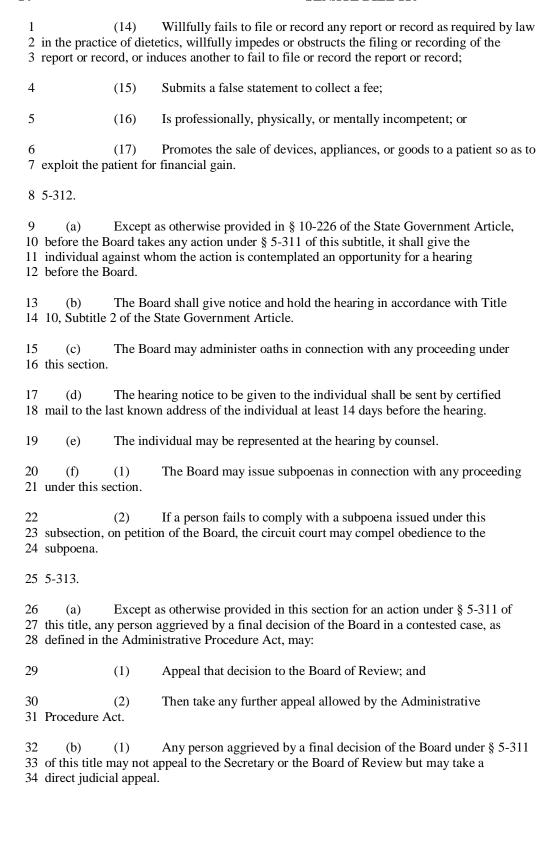
1 2	(c) dietetics with		to regulations add ense if the individ		d, an individual may	practice
3	[dietitian or l	(1) icensed i	Has met the acac nutritionist] DIET		ence requirements to IONIST;	be a licensed
5		(2)	Has applied for o	or taken the licen	sing examination; and	l
6		(3)	Is awaiting notif	ication of the exa	mination results.	
7	5-302.					
8 9	(a) requirements			n applicant shall	be an individual who	meets the
10	(b)	The app	licant must be of	good moral chara	acter.	
11	(c)	The app	licant must be at l	least 18 years old	l.	
12 13	(d) shall:	The app	licant for licensur	re as a [dietitian]	DIETITIAN-NUTRI	ΓΙΟΝΙSΤ
14 15		(1) etics as a	(i) Have sa pproved by the Bo		oleted academic requi	rements for the
16 17		niversity	(ii) Have reapproved by the I		ureate degree or a hig	her degree from a
	experience a		by the Commissi	on on Dietetic Re	pleted a program of suggistration of the American by the Board;	
21 22	Dietetic Reg	[(2) gistration	Submit to the Bo of the American		stration through the Cion; or	Commission on
23		(3)	Meet the require	ments of subsecti	ion (e)(2) or (3) of thi	s section.
24	(e)	The app	licant for licensur	e as a licensed nu	utritionist shall:	
25		(1)	Meet the require	ments of subsecti	ion (d)(1) or (2) of thi	s section;]
28 29	university ac Post-Second nutrition), for	lary Accr	by a regional acceditation in nutrit nutrition, dietetics	rediting body rec ional sciences (w , human nutrition	s or doctoral degree frognized by the Councith emphasis in huma, community nutrition by the Board; and	cil on n
31 32	component i	n dietetio	(ii) Have sa c or nutritionist pr		oleted a Board approv	ed experience
33			1	Consists of not	less than 900 hours: a	and

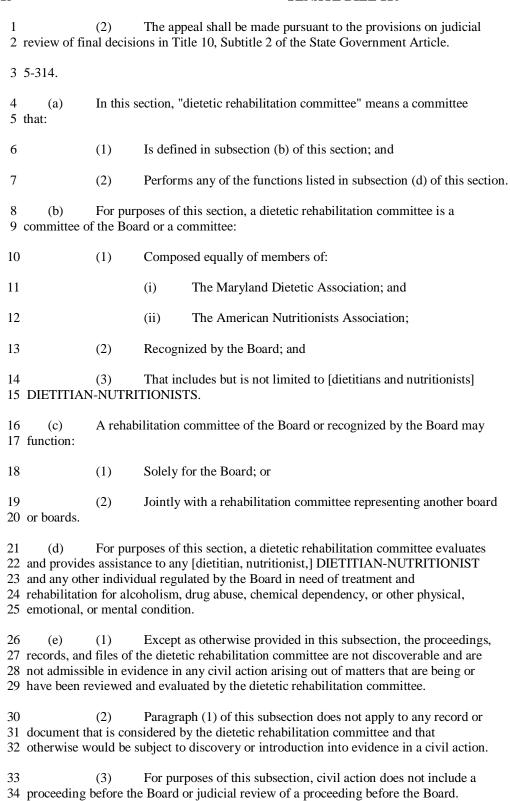
1 2	completing a	ı master's	2. Includes the human clinical experience gained while or doctoral degree; [or]
	COMMISSION ASSOCIATION		SUBMIT TO THE BOARD PROOF OF REGISTRATION THROUGH THE DIETETIC REGISTRATION OF THE AMERICAN DIETETIC
			(4) Have satisfactorily completed the academic and experience dertification Board for Nutrition Specialists and submit to the cation by the Certification Board for Nutrition Specialists.
9 10	[(f)] an examinat	(E) ion appro	Except as otherwise provided in this subtitle, the applicant must pass oved by the Board under this subtitle.
11 12	[(g)] that the Boa	(F) rd establi	The applicant shall meet any other qualifications or requirements ishes for license applicants.
13	5-303.		
14	(a)	An appl	icant for a license shall:
15 16	requires;	(1)	Submit an application to the Board on the form that the Board
17		(2)	Pay the application fee set by the Board; and
18		(3)	Provide proof of passing an examination approved by the Board.
21	or has been proof of goo	licensed ' od standir	ion to any other requirements of this section, an applicant who is TO PRACTICE DIETETICS in another state or country shall submit ag [as a licensed dietitian or licensed nutritionist] in that state or ligibility for a license in good standing in that state or country.
23	5-304.		
24	The Boa	ard shall o	determine the passing score for the examination approved.
25	5-305.		
26 27			to the provisions of this section, the Board may waive an nent of this title for an individual who:
28		(1)	Is licensed to practice dietetics in another state or country; or
29 30	Registration	(2) of the A	Is registered to practice dietetics by the Commission on Dietetic merican Dietetic Association.
31	(b)	The Boa	ard may grant a waiver under this section only if the applicant:
32 33	and	(1)	Pays the application fee set by the Board under § 5-206 of this title;

1	(2) Provides adequate evidence that the applicant:
2	(i) Meets the qualifications otherwise required by this subtitle; and
	(ii) 1. Became licensed in the other state or country after passing, in that state or country, an examination that the Board determines to be comparable to the examination for which the applicant is seeking the waiver; or
	2. Became registered by the Commission on Dietetic Registration of the American Dietetic Association after meeting the examination waiver requirements of that Commission or its predecessor.
9	5-306.
10 11	(a) If an applicant qualifies for a license under this subtitle, the Board shall send the applicant a notice that specifies that:
12	(1) The applicant has qualified for a license; and
13 14	(2) On receipt of the license fee set by the Board, the Board will issue a license to the applicant.
15 16	(b) On payment of the license fee, the Board shall issue a license to any applicant who meets the requirements of this subtitle.
17	(c) The Board shall include on each license that the Board issues:
18	(1) The full name of the licensee;
19	(2) A serial number assigned by the Board to the licensee; and
20 21	(3) The signature of the chairman of the Board, under seal of the Board. 5-307.
22 23	A license authorizes the licensee to practice dietetics while the license is effective.
24	5-308.
25 26	(a) (1) Unless the license is renewed for an additional term as provided in this section, a license expires on the date set by the Board.
27	(2) A license may not be renewed for a term longer than 2 years.
	(b) At least 1 month before the license expires, the Board shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:
31	(1) The date on which the current license expires;

1 (2) The date by which the Board must receive the renewal application for 2 the renewal to be issued and mailed before the license expires; and 3 (3) The amount of the renewal fee. 4 Before the license expires, the licensee periodically may renew it for an (c) 5 additional 2-year term, if the licensee: Otherwise is entitled to be licensed; 6 (1) 7 (2) Pays to the Board a renewal fee set by the Board; and 8 (3) Submits to the Board: 9 (i) A renewal application on the form that the Board requires; and 10 (ii) Satisfactory evidence of compliance with the continuing 11 education requirements for license renewal set by the Board under this section. 12 In addition to any other qualifications and requirements established by 13 the Board, the Board shall establish continuing education requirements as a condition to the renewal of licenses under this section. 15 The Board shall renew the license of each licensee who meets the 16 requirements of this section. 17 5-309. 18 The Board, in accordance with its regulations, shall reinstate the license of a [dietitian or nutritionist] DIETITIAN-NUTRITIONIST who has failed to renew the 20 license for any reason if the [dietitian or nutritionist] DIETITIAN-NUTRITIONIST: 21 (1) Meets the renewal requirements of § 5-308 of this subtitle; 22 Pays to the Board the reinstatement fee set by the Board; and (2) 23 (3) Submits to the Board satisfactory evidence of compliance with the 24 qualifications and requirements established under this subtitle for license 25 reinstatements. 26 5-310. 27 (a) Each licensee shall produce a valid license when requested to do so by an 28 existing or potential employer or client. 29 Each licensee shall give the Board written notice of any change of address. (b) 30 5-311. Subject to the hearing provisions of § 5-312 of this subtitle, the Board, on the 32 affirmative vote of a majority of its members then serving, may deny a license to any

	applicant, rep licensee:	rimand a	ny licensee, or suspend or revoke a license if the applicant or
3		(1) ant or lic	Fraudulently or deceptively obtains or attempts to obtain a license ensee or for another;
5		(2)	Fraudulently or deceptively uses a license;
6 7	this title;	(3)	Violates any provision of this title or any regulations adopted under
	individual wi		Refuses, withholds from, denies, or discriminates against an to the provision of professional service for which the licensee is to render because the individual is HIV positive;
11		(5)	Commits fraud or deceit in the practice of dietetics;
	involving mo	oral turpi	Is convicted of or pleads nolo contendere to a felony or to a crime ude, whether or not any appeal or other proceeding is pending or plea set aside;
15 16	misrepresent	(7) ation;	Obtains or attempts to obtain a fee through fraud or
17 18			Employs any person to practice dietetics whose license or certificate cupation under this article has been suspended;
	deceiving, or	untruthi	Intentionally uses or promotes or causes the use of any misleading, ul advertising matter, or promotional literature, testimonial, abel, brand, insignia, or other representation;
22 23		(10) ons of the	Commits any act of unprofessional conduct, as defined by the rules Board, or violates the code of ethics adopted by the Board;
24		(11)	Provides professional services while:
25			(i) Under the influence of alcohol; or
	defined in §		(ii) Using any narcotic or controlled dangerous substance, as the Criminal Law Article, or other drug that is in excess of r without valid medical indication;
	state or coun	•	Is disciplined by a licensing or disciplinary authority of any other existed or disciplined by a court of any other state or country for rounds for disciplinary action under this section;
32 33		(13) zed perso	Practices dietetics with an unauthorized person or supervises or aids n in the practice of dietetics:





- 16 **SENATE BILL 110** 1 (f) A person who acts in good faith and within the scope of jurisdiction of a 2 dietetic rehabilitation committee is not civilly liable for any action as a member of the 3 dietetic rehabilitation committee or for giving information to, participating in, or 4 contributing to the function of the dietetic rehabilitation committee. 5 5-401. Except as otherwise provided in this title, a person may not practice, attempt to 6 7 practice, or offer to practice dietetics in the State unless licensed by the Board. 8 5-402. 9 Except as otherwise provided under this title, a person may not represent 10 or imply to the public by use of the title ["licensed dietitian", or "licensed 11 nutritionist"] "LICENSED DIETITIAN-NUTRITIONIST", by other title, by description of 12 services, methods, or procedures that the person is authorized to practice dietetics in 13 the State. 14 (b) Unless authorized to practice dietetics under this title, a person may not 15 use the words or terms "DIETITIAN-NUTRITIONIST", "LICENSED 16 DIETITIAN-NUTRITIONIST", "LDN", "dietitian", "licensed dietitian", "D", "LD", 17 "NUTRITIONIST", "licensed nutritionist", or "LN". 18 5-403. 19 A person who violates § 5-401 or § 5-402 of this subtitle is guilty of a 20 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or 21 imprisonment not exceeding 1 year or both. 22 5-501. 23 This title may be cited as the "Maryland [Dietitians and Licensed Nutritionists] 24 LICENSED DIETITIAN-NUTRITIONISTS Act". 25 5-502. 26 Subject to the evaluation and reestablishment provisions of the Maryland 27 Program Evaluation Act, this title and all regulations adopted under this title shall 28 terminate and be of no effect after July 1, [2005] 2015. 29 **Article - State Government**
- 30 8-403.
- 31 (a) On or before December 15 of the 2nd year before the evaluation date of a
- 32 governmental activity or unit, the Legislative Policy Committee, based on a
- 33 preliminary evaluation, may waive as unnecessary the evaluation required under this
- 34 section.

- 1 (b) Except as otherwise provided in subsection (a) of this section, on or before
- 2 the evaluation date for the following governmental activities or units, an evaluation
- 3 shall be made of the following governmental activities or units and the statutes and
- 4 regulations that relate to the governmental activities or units:
- 5 (18) Dietetic Practice, State Board of (§ 5-201 of the Health Occupations
- 6 Article: July 1, [2004] 2014);
- 7 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
- 8 Dietetic Practice and the Department of Health and Mental Hygiene shall report to
- 9 the Senate Education, Health, and Environmental Affairs Committee and the House
- 10 Health and Government Operations Committee on or before October 1, 2004, in
- 11 accordance with § 2-1246 of the State Government Article, on the implementation of
- 12 the recommendations of the Department of Legislative Services contained in the
- 13 sunset evaluation report dated October 2003.
- 14 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section
- 15 1 of this Act, a member of the State Board of Dietetic Practice whose term as of June
- 16 30, 2004 was to terminate after July 1, 2004, shall continue to serve the remainder of
- 17 the term, or until the member's successor is appointed.
- 18 SECTION 4. AND BE IT FURTHER ENACTED, That an individual licensed as
- 19 a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004, in
- 20 all respects, shall be considered licensed by the State Board of Dietetic Practice and,
- 21 subject to the provisions of this Act, for the remainder of the term of the individual's
- 22 license. On expiration of the individual's license, the individual may qualify for
- 23 renewal of a license under § 5-308 of the Health Occupations Article as if the
- 24 individual had been licensed as a dietitian-nutritionist by the State Board of Dietetic
- 25 Practice.
- 26 SECTION 5. AND BE IT FURTHER ENACTED, That if an individual licensed
- 27 as a dietitian or nutritionist by the State Board of Dietetic Practice on June 30, 2004
- 28 fails to timely renew the license, the individual may qualify for reinstatement of the
- 29 license under § 5-309 of the Health Occupations Article as if the individual had been
- 30 licensed as a dietitian-nutritionist by the State Board of Dietetic Practice.
- 31 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 32 July 1, 2004.