



DEPARTMENT OF HEALTH

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MARYLAND BOARD OF PHARMACY

Jennifer L. Hardesty, PharmD, FASCP, Board President — Deena Speights-Napata, MA, Executive Director

March 1, 2023

The Honorable C. T. Wilson
Chair, House Economic Matters Committee
Room 231, Taylor House Office Building
6 Bladen Street
Annapolis, Maryland 21401

RE: House Bill 634 – Public Health – Sale of Diet Pills to Minors – Prohibition (Protecting Teenagers from Unregulated Diet Pills)

Dear Chair Wilson and Committee Members:

The Maryland Board of Pharmacy (Board) respectfully submits this letter of concern for House Bill (HB) 634 – Public Health – Sale of Diet Pills to Minors – Prohibition (Protecting Teenagers from Unregulated Diet Pills).

HB 634 would restrict the sale and provision of “diet pills” to an individual under the age of 18 without a prescription. § 21-259.4(b)(1). HB 634 defines a (1) dietary supplement¹, as defined in 21 U.S.C. § 321 or (2) drug, as defined in 21 U.S.C. § 321 for which a prescription is not required under the Federal Food, Drug, and Cosmetic Act as a “diet pill.”² § 21-259.4(a)(4).

HB 634 further clarifies that the identified product must be “labeled, marketed, or otherwise represented for the purpose of achieving weight loss or building muscle.” § 21-259.4(a)(4).

HB 634 would require a brick and mortar establishment to secure “diet pills” in an area that is directly accessible only by employees. § 21-259.4(b)(2). HB 634 would require a seller to request valid identification from a potential customer prior to completing the sale of a “diet pill” if the individual reasonably appears to be under the age of 18. § 21-259.4(b)(3). HB 634 would require a “delivery seller” to (1) restrict sales to those who can verify that they are not under the

¹ “Dietary supplement” means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or a concentrate, metabolite, constituent, extract, or combination...” of any above-listed ingredient. 21 U.S.C. § 321(ff).

² A food, dietary ingredient, or dietary supplement for which a claim is made...or for which a truthful and not misleading statement is made...is not a drug...solely because the label...contains such a statement. 21 U.S.C. § 321(g)(1).

age of 18 prior to purchase and (2) implement signature enhanced delivery release methods. § 21-259.4(c). HB 634 would require any establishment that sells “diet pills” to post a sign indicating “that specified diet pills may contribute to gastrointestinal impairment, tachycardia, hypertension, myocardial infarction, stroke, organ failure, severe liver injury sometimes requiring a transplant or leading to death, or other serious injuries or death.” § 21-259.4(e).

As written, HB 634 may require pharmacy locations that also sell general health and wellness products to implement inventory stocking changes so significant that it would be more practical to prohibit any individual under the age of 18 from entering the premises. HB 634’s definition of “diet pills” does not clearly indicate which products would be subject to its provisions; therefore, pharmacy operators may find avoiding the \$1,000 almost impossible. HB 634 may subject relatively innocuous products, such as protein powder and multi-vitamins, to an unnecessary level of scrutiny and restriction. The informative notice required by HB 634 may cause unnecessary concern as it is not specific to a particular product. HB 634 may lead some manufacturers to remove informative labeling in an effort to bypass its restrictions.

If you would like to discuss this further, please do not hesitate to contact Deena Speights-Napata, MA, Executive Director at deena.speights-napata@maryland.gov or (410) 764-4753.

Sincerely,



Deena Speights-Napata, MA
Executive Director