



# Board of Pharmacy

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

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March 16, 2023

The Honorable Melony Griffith  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

## **RE: Senate Bill 602 – Public Health – Sale of Diet Pills to Minors – Prohibition**

Dear Chair Griffith and Committee Members:

The Maryland Board of Pharmacy (Board) respectfully submits this letter of concern for Senate Bill (SB) 602 – Public Health – Sale of Diet Pills to Minors – Prohibition.

SB 602 would restrict, without a prescription, the sale and provision of “diet pills” to an individual under the age of 18. § 21-259.4(b)(1). SB 602 defines “diet pills” as a (1) dietary supplement<sup>1</sup>, 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.<sup>2</sup> § 21-259.4(a)(4).

SB 602 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).

SB 602 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). SB 602 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). SB 602 would require a “delivery seller” to (1) restrict sales to those who can verify that they are not under the age of 18 prior to purchase and (2) implement signature enhanced, delivery release methods. § 21-259.4(c). SB 602 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

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<sup>1</sup> “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).

<sup>2</sup> 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).

sometimes requiring a transplant or leading to death, or other serious injuries or death.” § 21-259.4(e).

As written, SB 602 may require a pharmacy that also sells general health and wellness products to implement inventory stocking changes so significant that it would be more practicable to prohibit any individual under the age of 18 from entering the premises. SB 602’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 fine almost impossible. SB 602 may subject relatively innocuous products, such as protein powder and multivitamins, to an unnecessary level of scrutiny and restriction. The informative notice required by SB 602 may cause unnecessary concern, as it is not specific to a particular product. SB 602 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](mailto:deena.speights-napata@maryland.gov) or (410) 764-4753.

Sincerely,

Deena Speights-Napata, MA  
Executive Director