

# **Preliminary Evaluation of the State Board of Dietetic Practice**

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**Recommendations:      Waive from Full Evaluation**

**Extend Termination Date by 10 Years to July 1, 2025**

**Require Follow-up Report by October 1, 2013**

## **The Sunset Review Process**

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process also known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If further evaluation is waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board of Dietetic Practice last underwent a full evaluation as part of sunset review in 2003. Based on that evaluation, DLS recommended that legislation be enacted to extend the board’s termination date by 10 years to July 1, 2015. DLS also recommended that the board submit a follow-up report to certain committees of the General Assembly by October 1, 2004, on implementation of the recommendations contained in the sunset report. Chapter 439 of 2004 extended the board’s termination date and required DLS to conduct a sunset review of the board by July 1, 2014.

In conducting this preliminary evaluation, DLS staff reviewed prior evaluations of the board; applicable State law and regulations; recent legislative and regulatory actions; the board’s operating budget, meeting minutes, annual reports, and newsletters; as well as licensing, complaint, and disciplinary data. DLS staff conducted interviews with the executive director and board president. DLS also examined data on national industry trends, surveyed the Maryland Academy of Nutrition and Dietetics (formerly the Maryland Dietetic Association) and the Maryland Nutritionists Association, and attended a board meeting.

The board reviewed a draft of this preliminary evaluation and provided the written comments attached as **Appendix 1**. Appropriate factual corrections and clarifications have been

made throughout the document; therefore, references in board comments may not reflect the final version of the report.

## **The Practice of Dietetics**

Dietitians and nutritionists are experts in food and nutrition who advise individuals on what food to eat in order to lead a healthy lifestyle. The work of dietitians and nutritionists includes assessing patients and clients, explaining nutrition issues, and developing meal plans and nutritional programs. While the majority of dietitians and nutritionists work in hospital settings, others work in nursing care facilities, outpatient care centers, physician offices, schools, and cafeterias. Some dietitians and nutritionists are self-employed. Specialties for dietitians and nutritionists include clinical dietitians, who provide medical nutrition therapy; management dietitians, who plan meal programs; and community dietitians, who educate the public on topics related to food and nutrition.

The Maryland Licensed Dietitian-Nutritionists Act defines “practice dietetics” as the application of principles derived from integrating knowledge of food, biochemistry, physiology, management science, behavioral science, and social science to human nutrition, including:

- assessing individual and community food practices and nutritional status – using anthropometric, biochemical, clinical, dietary, and demographic data – for clinical, research, and program planning purposes;
- developing, establishing, and evaluating nutritional care plans that establish priorities, goals, and objectives for meeting nutrient needs for individuals or groups;
- nutrition counseling and education as a part of preventive or restorative health care throughout the life cycle;
- determining, applying, and evaluating standards for food and nutrition services; and
- applying scientific research to the role of food in the maintenance of health and the treatment of disease.

## **Employment in Dietetics Is Expected to Grow**

According to the U.S. Department of Labor’s Bureau of Labor Statistics’ *Occupational Handbook*, approximately 64,400 dietitians and nutritionists were employed nationwide in 2010, and projections show that the jobs will increase 20% by 2020. The growth is due, in part, to greater interest in the role of food as part of preventative health care. Additionally, the aging of the U.S. population has led to an increased prevalence of diabetes and heart disease, both of which can be treated, at least in part, through a change in diet.

## State Board of Dietetic Practice

The State Board of Dietetic Practice was established in 1985 to protect the lives and health of the citizens of Maryland. The board fulfills its mission by issuing dietitian-nutritionist licenses, setting standards for the practice of dietetics, developing and enforcing regulations, resolving complaints, and educating the public. The board also enforces title protection of “licensed dietitian-nutritionist” to those individuals who are licensed by the board.

The board comprises nine members. Seven members are licensed dietitian-nutritionists and two are consumers. As shown in **Exhibit 1**, five of the licensed members must represent certain specialty areas of practice. The two consumer members may not have any connection to the practice of dietetics. All members are appointed by the Governor with the advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate. For the licensed dietitian-nutritionist members, the Secretary makes recommendations to the Governor from a list of qualified individuals compiled by the board, the Maryland Academy of Dietetics and Nutrition, and the Maryland Nutritionists Association. Once appointed, all members serve four-year, staggered terms. No member may serve more than two consecutive full terms, though all may serve until a successor is named. The board currently has no vacancies.

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### Exhibit 1 Required Board Composition

<u>Number of Members</u>	<u>Type of Member/Specialty Area of Practice</u>
1	Clinical Dietetic Practice
1	Community or Public Health Dietetic Practice
1	Administrative Dietetic Practice
1	Consulting Dietetic Practice
1	Faculty Member in the Field of Dietetics or Nutritional Science
2	Licensed Nutritionists Who Are Not Registered Dietitians
2	Consumer Members

Source: Laws of Maryland

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The board’s staff consists of a part-time administrator and a full-time administrative assistant. Staff duties include responding to licensees and the public by phone or email; attending bimonthly board meetings; mailing initial licenses, license renewal notices, and renewal licenses; verifying the completion of continuing education units; and maintaining board files. Other shared personnel support the board. Investigators are hired on a contractual basis and paid hourly wages. An assistant Attorney General is provided by the Department of Health

and Mental Hygiene (DHMH) for which the board pays its share of associated costs. A regulations coordinator and fiscal and information technology personnel are shared with other boards. DHMH charges the board for certain support services, such as personnel, timekeeping, and training, through an indirect cost assessment. Though most board staffing is shared, it appears sufficient to meet the administrative needs of the board.

## **Regulation of Dietitians and Nutritionists in Maryland**

Maryland began regulating the practice of dietetics in 1985 when the General Assembly established a license for dietitians. One year later, the General Assembly established a separate license for nutritionists. The original distinction between the two licenses was that licensing requirements for nutritionists included the option of completing a master's or doctoral degree whereas licensing requirements for dietitians did not. Although nutritionists were not required to have an advanced degree, because the option was available for them and not for dietitians, it became the custom that professionals in dietetic practice holding a master's or doctoral degree opted for licensure as a nutritionist. Likewise, those professionals in dietetic practice who did not hold a master's or doctoral degree took the licensed dietitian route. In 1994, legislation passed retaining separate licenses for dietitians and nutritionists but making the requirements for each license identical by including the option of having an advanced degree as a qualification for both dietitian and nutritionist licenses.

After a full sunset evaluation in 2003, DLS recommended that the separate licenses for dietitians and nutritionists be combined into a single license for dietitian-nutritionists. DLS found that there was no difference in the licensure requirements or scope of practice for the two professions. Chapter 439 of 2004 established a license for dietitian-nutritionists and phased out the separate licensing of dietitians and nutritionists.

Maryland dietitians and nutritionists are represented by two industry groups, the Maryland Academy of Nutrition and Dietetics and the Maryland Nutritionists Association. On September 24, 2011, the American Dietetic Association changed its name to the Academy of Nutrition and Dietetics. Likewise, the Maryland Dietetic Association changed its name to the Maryland Academy of Nutrition and Dietetics. **A technical correction should be made in statute to reflect this change.**

## **Legislative Changes Affecting the Board Since the 2003 Sunset Review**

As shown in **Exhibit 2**, only a handful of legislative changes have affected the board since the last sunset review in 2003. The board has successfully implemented these changes.

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**Exhibit 2**  
**Major Legislative Changes Since the 2003 Sunset Evaluation**

**Year   Chapter   Change**

2004	439	<p>Extends the board's termination date by 10 years to July 1, 2015.</p> <p>Requires DLS to conduct a sunset review of the board by July 1, 2014.</p> <p>Creates a single dietitian-nutritionist license for the practice of dietetics and phases out the existing dietitian licenses and nutritionist licenses.</p> <p>Limits use of the titles "nutritionist" and "dietitian-nutritionist" to individuals who are licensed to practice dietetics.</p> <p>Alters the qualification requirements and nomination process for board members.</p> <p>Requires the board and DHMH to report to certain committees of the General Assembly on or before October 1, 2004, on the board's progress in implementing the recommendations of the 2003 DLS sunset evaluation report.</p>
2006	382	<p>Authorizes the board to issue subpoenas, summon witnesses, administer oaths, and take affidavits and testimony.</p> <p>Authorizes board members to receive compensation.</p> <p>Consolidates and enhances the requirements for licensure as a dietitian-nutritionist.</p> <p>Requires national certification as a prerequisite for licensure.</p> <p>Repeals a provision of law that previously authorized an individual to practice without a license if the application process for licensure had been initiated but not yet completed.</p> <p>Expands the board's authority to waive an examination requirement.</p> <p>Authorizes the board to place licensees on inactive status.</p> <p>Clarifies disciplinary action, penalty, and hearing provisions.</p> <p>Authorizes the board to impose civil monetary penalties of up to \$5,000 instead of or in addition to suspending or revoking a license or reprimanding a licensee.</p> <p>Alters the composition of the Dietetic Rehabilitation Committee.</p>

- 2010 533/534 Set standardized guidelines for all health occupations boards regarding disciplinary processes, board membership, and other administrative matters.
- Require each board, to the extent permitted by administrative and fiscal resources, to establish a disciplinary subcommittee to be responsible for the investigation of complaints and other aspects of the disciplinary process.
- Establish a six-year statute of limitations on the bringing of charges by a board against a licensee.
- Require boards to adopt sanctioning guidelines and post final public orders on the boards' websites.
- Require board membership to reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.
- Require boards to notify licensees of board vacancies.
- Require boards to develop a training process and materials for new board members.
- Require boards to collect racial and ethnic information about applicants.
- Authorize boards to establish a program that provides training, mentoring, or other forms of remediation to licensees who commit a single standard-of-care violation.
- Require the Secretary of Health and Mental Hygiene to confirm the appointment of an administrator or executive director to each board and establish goals for the timeliness of complaint resolution.

Source: Laws of Maryland

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## Legislative Response to Unlicensed Individuals

Historically, the board has struggled with unlicensed individuals practicing dietetics. Chapter 382 of 2006 addressed this issue by expanding the board's authority to issue subpoenas, summon witnesses, administer oaths, take affidavits, and take testimony on matters relating to the board's jurisdiction, rather than only in connection with a board hearing. The legislation also defined "medical device," "medical nutrition," and "supervision"; expanded the board's authority to impose civil monetary penalties; and modified the board's grounds for taking disciplinary action by providing that:

- use of misleading, deceiving, or untruthful advertising matter or other information no longer had to be *intentional* to be subject to board disciplinary action;
- failure to file a required report or record or impeding or obstructing the filing of the report or record no longer had to be *willful* to be subject to board disciplinary action; and

- an individual who failed to cooperate with a lawful investigation conducted by the board would be subject to board disciplinary action.

Further, Chapter 382 provided the board with more options for disciplining licensees by adding provisions that prohibit the surrender of a license during an investigation unless approved by the board and authorizing the board to impose a civil fine of up to \$5,000.

## **General Revisions to Health Occupations Boards**

Chapters 533 and 534 of 2010 set standardized guidelines for all health occupations boards' policies and procedures. The legislation focused on the disciplinary process and sanctioning of licensees; board vacancies, membership, and training; the appointment of an executive director; the posting of final orders on a board's website; data collection; and the role of the assistant Attorneys General in the disciplinary process. The small size of the board and low number of complaints make some of the requirements difficult to implement; however, the board has complied with the requirements, including the adoption of sanctioning guidelines, which became effective in April 2012.

## **Licensure of Dietitian-nutritionists**

An individual must be licensed by the board before practicing dietetics in Maryland. Licensure applicants must be of good moral character and at least 18 years of age. Additionally, an applicant must:

- complete academic requirements for the field of dietetics and have a baccalaureate degree from an accredited college or university; or
- have a master's or doctoral degree from an accredited college or university in nutritional sciences (with emphasis in human nutrition), food and nutrition, dietetics, human nutrition, community nutrition, public health nutrition, or equivalent training approved by the board.

An applicant must have satisfactorily completed a program of supervised clinical experience approved by the board and submit to the board proof of certification by the Certification Board for Nutritional Specialists or proof of registration with the American Academy of Dietetics and Nutrition. A license expires on the date set by the board and may not be renewed for a term longer than two years. Before the license expires, the licensee may renew the license for an additional two years if the licensee meets specified requirements.

The board issues new and renewal dietitian-nutritionist licenses in a timely manner, with the majority of the applications processed within two days.

## Licensure Activity Remains Stable

**Exhibit 3** shows licensing activity for fiscal 2008 through 2012 and projected activity for fiscal 2013. Over the past five fiscal years, the board issued a total of 638 initial licenses (an average of 128 annually), renewed 3,108 licenses (an average of 622 annually), placed 159 licenses on inactive status, reactivated 17 licenses, and reinstated 27 licenses. As of June 30, 2012, a total of 1,588 active licensees and 145 inactive licensees were under the jurisdiction of the board. This figure represents all active licensees on record with the board as of that date. As the figure is based on one point in time, it does not reflect the sum of licenses issued over the two-year licensure period shown below in Exhibit 3.

**Exhibit 3**  
**Licensing Activity**  
**Fiscal 2008-2012**

<b><u>License</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2010</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>Projected FY 2013</u></b>
Initial	125	133	123	130	127	120
Renewal	589	613	607	657	642	620
Inactive	27	43	30	31	28	10
Reactivation	1	3	3	4	6	5
Reinstatement	3	7	7	5	5	5
<b>Total</b>	<b>745</b>	<b>799</b>	<b>770</b>	<b>827</b>	<b>808</b>	<b>760</b>

Source: State Board of Dietetic Practice

DLS notes that approximately 100 licensees fail to renew each year. The board indicated that the loss of licensees is common due to individuals who retire, take extended maternity leave, pass away, or move out of state, but that the economy has also played a role. To date, the loss of licensees has not been large enough to impact the board's finances as it is offset by a slightly larger number of new licensees annually.

## Complaints

The board is charged with receiving, investigating, and responding to questions and complaints. As shown in **Exhibit 4**, on average, the board receives approximately 13 complaints per year, most of which are related to practicing without a license. The board resolves almost 90% of complaints within six months.



**Exhibit 4**  
**Resolution of Complaints Received**  
**Fiscal 2008-2012**

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
New Complaints	19	14	14	11	9
<i>Type of Complaints</i>					
Practicing Without a License	6	10	13	10	7
Aids in Practice Without a License	7				
Standard of Care	6	2			1
Other		2	1	1	1
<i>Time for Resolution</i>					
Within Six Months	16	12	13	11	8 <sup>1</sup>
Required More than Six Months	3	2	1		
<i>Disposition of Resolved Complaints</i>					
Closed Without Action	6	3	4	5	5
Closed/Referred to Another Board	2				
Closed/Letter of Law	2	6	1		
Closed/Letter of Education	7		1		
Closed/Letter of Admonishment	1	2			
Closed/Cease and Desist Letter	1	2	8	6	3
Formal Charges/Consent Agreement		1			

<sup>1</sup> One case from fiscal 2012 is pending as of September 24, 2012, while all other cases have been resolved.  
Source: Department of Legislative Services, State Board of Dietetic Practice

### **Board Receives Large Number of Unlicensed Practice Complaints**

Most board complaints concern unlicensed individuals. These complaints come from the public, licensees, other health occupations boards, the trade associations, and DHMH's Office of Health Care Quality. Frequently, the complaints refer to websites that mislead the public to believe a person is authorized to practice dietetics and provide medical nutrition.

The Maryland Licensed Dietitian-Nutritionists Act prohibits a person from practicing dietetics in the State unless licensed by the board, while explicitly excluding a person that provides services and information related to nonmedical nutrition, which includes weight loss programs, health food stores, and other sources of nonmedical nutrition. Unfortunately, it is difficult for the public and potential providers of nutritional information to determine the

difference between practicing dietetics and providing services and information related to nonmedical nutrition. The Act and corresponding regulations attempt to distinguish the two, but inconsistent definitions and terminology make it difficult to understand. For example, § 5-301 of the Health Occupations Article uses the term “practice dietetics,” while the exemption clauses in § 5-103(b) and (d) of the Health Occupations Article refer to “providing services and information related to nonmedical nutrition.” Both “practice dietetics” and “medical nutrition” are defined by statute, but “nonmedical nutrition” is only defined in regulation. Further, neither the definition of “practice dietetics” nor the definition of “medical nutrition” refers to the other, and the definitions in statute do not match the definitions in regulation. **The board should work with relevant stakeholders to propose clarification of these definitions.**

### **Board Has Limited Authority over Unlicensed Practice Complaints**

The board remains limited in the action it can take in response to complaints alleging the unlicensed practice of dietetics. The board can refer a complaint of this nature to the Office of the Attorney General (OAG) for criminal prosecution. If OAG decides to move forward with the complaint, persons found to be practicing dietetics without a license or otherwise misrepresenting themselves may be found guilty of a misdemeanor and subject to fines of up to \$1,000 and imprisonment for up to one year. Despite having this authority, the board reports it has never taken this action.

Instead, the board closes complaints concerning the unlicensed practice of dietetics by sending letters of law or cease and desist letters. A letter of law cites the statutory definitions for “practice dietetics” and “medical nutrition” and informs an unlicensed individual that statute prohibits an individual from practicing dietetics without being licensed by the board. Further, a letter of law includes the statutory provisions for title protection and criminal sanctions. A cease and desist letter is similar to a letter of law except that it states that the unlicensed individual must immediately stop a specific action and includes the term “cease and desist.”

Recently, the board stopped sending cease and desist letters in response to an opinion issued by the Federal Trade Commission (FTC) concerning antitrust implications on the interaction between health occupations boards and unlicensed individuals. On December 7, 2011, FTC issued a final order and opinion regarding the North Carolina Board of Dental Examiners. The decision prohibits that board from issuing cease and desist orders to nondentist teeth whitening providers. The American Medical Association has appealed the decision to the U.S. Court of Appeals for the Fourth Circuit. The opinion is tentatively scheduled for oral argument in December 2012. Although the issue is not directly related to the practice of dietetics, it has given the State Board of Dietetic Practice pause in its actions against unlicensed individuals. **Once the court has ruled on this case, the board should consider whether additional statutory authority would better enable the board to handle complaints concerning unlicensed individuals. The board may wish to amend its statute to include specific authority to issue cease and desist letters or to seek injunctive relief, as is authorized in the Health Occupations Article for other health occupations boards.**

## Board Finances

The board is entirely special funded by fees collected for licensing and other board services. In fiscal 2008, the board established an “inactive status fee” of \$75 and a “reactivation after inactive status fee” of \$150 in order to comply with Chapter 382 of 2006, which established the inactive license. Additionally in fiscal 2008, the board established a \$50 fee for failure to notify the board of a change of address. The board’s last fee increase took effect in fiscal 2009 when it raised the biennial renewal fee from \$175 to \$250. The board does not anticipate the need to raise fees in the near future.

As shown in **Exhibit 5**, board expenditures have remained relatively stable, with the exception of a large jump from fiscal 2008 to 2009. The board indicates that the increase was due to the cost of referring a complaint to the Office of Administrative Hearings in fiscal 2009, a rare occurrence for the board, and lower than usual expenditures in fiscal 2008. More specifically, the board had no health insurance expenditures in fiscal 2008 and the administrative director performed some work for the Community Health Resources Commission for which the board’s portion of shared staffing costs was reduced. With the exception of fiscal 2008, board expenditures have averaged just under \$202,000.

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### Exhibit 5 Financial History of the State Board of Dietetic Practice Fiscal 2008-2012

	<u><b>FY 2008</b></u>	<u><b>FY 2009</b></u>	<u><b>FY 2010</b></u>	<u><b>FY 2011</b></u>	<u><b>FY 2012</b></u>
Beginning Balance	\$13,531	\$2,668	\$0	\$4,658	\$14,199
Revenues	151,500	202,089	201,952	219,356	216,540
<b>Total Available Funds</b>	<b>\$165,031</b>	<b>\$204,757</b>	<b>\$201,952</b>	<b>\$224,014</b>	<b>\$230,739</b>
Direct Costs	137,980	184,336	169,699	178,011	180,077
Indirect Costs	24,383	20,421	23,857	28,082	22,589
<b>Total Expenditures</b>	<b>\$162,363</b>	<b>\$204,757</b>	<b>\$193,556</b>	<b>\$206,093</b>	<b>\$202,666</b>
Transfer to General Fund			3,738	3,722	
<b>Ending Fund Balance</b>	<b>\$2,668</b>	<b>\$0</b>	<b>\$4,658</b>	<b>\$14,199</b>	<b>\$28,073</b>
Balance as % of Expenditures	2%	0%	2%	7%	14%
Target Fund Balance (30% of expenditures)	\$48,709	\$61,427	\$58,067	\$61,828	\$60,800

Source: State Board of Dietetic Practice

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As described above, board revenues are generated by biennial licensure fees, with slightly more than half of licensees renewing in odd-numbered fiscal years and slightly less than half of licensees renewing in even-numbered fiscal years. Revenues jumped by nearly \$51,000 between fiscal 2008 and 2009 due to an increase in the renewal fee. With the exception of fiscal 2008, revenues have averaged just under \$210,000. In fiscal 2008 and 2009, board expenditures exceeded fee revenues. Since the renewal fee was increased in fiscal 2009, fee revenues have consistently exceeded expenditures.

Each special-funded board maintains a fund balance of approximately 20% to 30% of annual expenditures to cover unanticipated expenses or fluctuations in licensing volume and associated revenues. Because of its small size, DHMH has set a target fund balance of 30% of expenditures for this board. However, the board has historically kept an even lower balance. For example, at the time of the board's last sunset evaluation, the board's fiscal 2003 ending fund balance was \$2,870 (2% of annual expenditures). In fiscal 2008, the fund balance was similarly low at \$2,668 (2% of expenditures). Recognizing that funds otherwise would not be sufficient to cover costs, the board took appropriate action by increasing fees as noted above. Unfortunately, the board's costs increased that same year as discussed previously. Even with the additional revenue from increased fees, these additional expenditures resulted in the board depleting its fund balance to zero by the end of fiscal 2009. The board had replenished its fund balance to \$28,073 (14% of expenditures) by the end of fiscal 2012. The board's fund balance is projected to be just under the 30% target by the end of fiscal 2013, assuming current licensing trends continue and fees remain the same.

In recent years, some health occupations boards have been required to transfer funds to the general fund. The Budget Reconciliation and Financing Act (BRFA) of 2010, required the board to transfer \$3,738 to the general fund for furloughs in fiscal 2010. The BRFA also required the board to transfer special fund savings realized from the implementation of furloughs to the general fund in fiscal 2011. Additionally, the BRFA transferred money from almost all of the health occupations boards in fiscal 2011, including \$796 from the board, and directed that the funds support the Central Business Licensing Project. Total transfers from the board to the general fund in fiscal 2011 were \$3,722. Without these transfers, the board's fund balance would have been higher.

During the 2012 session, the budget committees expressed concern over the fund balances for various health occupations boards. The *Joint Chairmen's Report* required DHMH to submit a report detailing five-year budget projections for the boards. **Exhibit 6** demonstrates the board's projected revenues, expenses, and fund balances for the next five years as provided in the *Joint Chairmen's Report* response.

**Exhibit 6**  
**Financial Projections of the State Board of Dietetic Practice**  
**Fiscal 2013-2017**

	<u><b>FY 2013</b></u>	<u><b>FY 2014</b></u>	<u><b>FY 2015</b></u>	<u><b>FY 2016</b></u>	<u><b>FY 2017</b></u>
Beginning Balance	\$28,073	\$52,711	\$66,575	\$75,353	\$72,722
Revenues	219,000	216,000	219,000	216,000	219,000
Total Available Funds	247,073	268,711	285,575	291,353	291,722
Total Expenditures	194,362	202,136	210,222	218,631	227,376
Ending Fund Balance	\$52,711	\$66,575	\$75,353	\$72,722	\$64,346
Balance as % of Expenditures	27%	33%	36%	33%	28%

Note: Fiscal 2013 figures reflect the current appropriation, while fiscal 2014 through 2017 figures are estimates.

Source: Department of Health and Mental Hygiene

Based on these projections, the board's annual fee revenue should be sufficient to cover expenditures until fiscal 2016 and 2017, when expenditures will again begin to exceed revenues. However, the board's fund balance is anticipated to continue to grow and in fact exceed the targeted 30% of expenditures in fiscal 2014 through 2016. Though it may remain slightly above target for this period, the board will then begin to spend down its balance beginning in fiscal 2017. If licensing activity remains consistent, this will allow the board to charge licensees stable fees for several years. **The board should continue to monitor its fund balance to remain at or below the established target.**

## **Recommendations**

The General Assembly established the board to protect the public by identifying qualified sources of nutritional care through licensure. The need to protect the public has only increased during the information age where nutritional information is available to anyone with access to a computer. The board has fulfilled its duty through efficient and timely licensing and complaint resolution processes. For the continued benefit of the public health, Maryland should maintain its regulation of dietetic practice. **Therefore, DLS recommends that LPC waive the State Board of Dietetic Practice from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2025.**

Through its continued regulation of dietitian-nutritionists, the board should consider addressing the recurring issue of unlicensed individuals in two ways. First, the board should

work with the Maryland Academy of Nutrition and Dietetics and the Maryland Nutritionists Association to more clearly define the difference between “practicing dietetics” and “providing services and information related to nonmedical nutrition.” Second, after the FTC decision has been resolved by the courts, the board should consider what, if any, additional authority it may need to more effectively address complaints alleging the unlicensed practice of dietetics. **DLS recommends that the board submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee; the House Health and Government Operations Committee; and DLS by October 1, 2013. This report should include any recommendations for legislative changes to clarify the practice of dietetics and any additional authority the board needs to address complaints alleging the unlicensed practice of dietetics.**

## **Appendix 1. Written Comments of the State Board of Dietetic Practice**

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STATE OF MARYLAND

DHMH

Board of Dietetic Practice

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

November 5, 2012

Jennifer B. Chasse, Principal Policy Analyst  
Department of Legislative Services  
Office of Policy Analysis  
90 State Circle  
Annapolis, MD 21401-1991

Dear Ms. Chasse:

The Board has reviewed the Exposure Draft of the evaluation of the State Board of Dietetic Practice and, in general, we concur with the findings and recommendations as proposed in the report.

If you have any questions or need additional information regarding the Board, please feel free to contact me at 410-764-4741.

Sincerely,

Marie M. Savage  
Director

cc: Secretary Joshua M. Sharfstein, M.D.  
Mr. Patrick D. Dooley  
Mr. Karl S. Aro  
Melanie A. Brooks, RD, LDN, Board Chair  
Board Members  
Ari Elbaum, Board Counsel

410-764-4733 Fax 410-358-1610 TTY 800-542-4964  
Toll Free 1-877-4MD-DHMH • TTY for Disabled - Maryland Relay Service 1-800-735-2258  
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