

HOUSE BILL No. 2778

By Committee on Health and Human Services

Requested by Representative S. Ruiz on behalf of the Board of Dietitians

2-8

1 AN ACT concerning health and healthcare; relating to dietitians; enacting
2 the dietitian compact to provide interstate practice privileges.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. This section shall be known and may be cited as the
6 dietitian compact.

7 SECTION 1—PURPOSE

8 The purpose of this compact is to facilitate interstate practice of
9 dietetics with the goal of improving public access to dietetics services.
10 This compact preserves the regulatory authority of states to protect public
11 health and safety through the current system of state licensure, while also
12 providing for licensure portability through a compact privilege granted to
13 qualifying professionals. This compact is designed to achieve the
14 following objectives:

- 15 (a) Increase public access to dietetics services;
16 (b) provide opportunities for interstate practice by licensed dietitians
17 who meet uniform requirements;
18 (c) eliminate the necessity for licenses in multiple states;
19 (d) reduce administrative burden on member states and licensees;
20 (e) enhance the states' ability to protect the public's health and safety;
21 (f) encourage the cooperation of member states in regulating
22 multistate practice of licensed dietitians;
23 (g) support relocating active military members and their spouses;
24 (h) enhance the exchange of licensure, investigative and disciplinary
25 information among member states; and
26 (i) vest all member states with the authority to hold a licensed
27 dietitian accountable for meeting all state practice laws in the state where
28 the patient is located at the time care is rendered.

29 SECTION 2—DEFINITIONS

30 As used in this compact, and except as otherwise provided, the
31 following definitions apply:

- 32 (a) "ACEND" means the accreditation council for education in
33 nutrition and dietetics or its successor organization.
34 (b) "Active military member" means any individual with full-time
35 duty status in the active armed forces of the United States, including

1 members of the national guard and reserve. (c) "Adverse action" means
2 any administrative, civil, equitable or criminal action permitted by a state's
3 laws that is imposed by a licensing authority or other authority against a
4 licensee, including actions against an individual's license or compact
5 privilege such as practice, or any other encumbrance on licensure affecting
6 a licensee's authorization to practice, including issuance of a cease and
7 desist action.

8 (d) "Alternative program" means a non-disciplinary monitoring or
9 practice remediation process approved by a licensing authority.

10 (e) "CDR" means the commission on dietetic registration or its
11 successor organization.

12 (f) "Charter member state" means any member state that enacted this
13 compact by law before the effective date specified in section 12.

14 (g) "Continuing education" means a requirement as a condition of
15 license renewal, to provide evidence of participation in, and completion of,
16 educational and professional activities relevant to practice or area of work.

17 (h) "Compact commission" means the government agency whose
18 membership consists of all states that have enacted this compact, which is
19 known as the dietitian licensure compact commission, as described in
20 section 8, and which shall operate as an instrumentality of the member
21 states.

22 (i) "Compact privilege" means a legal authorization, which is
23 equivalent to a license, permitting the practice of dietetics in a remote
24 state.

25 (j) "Current significant investigative information" means:

26 (1) Investigative information that a licensing authority, after a
27 preliminary inquiry that includes notification and an opportunity for the
28 subject licensee to respond, if required by state law, has reason to believe
29 is not groundless and, if proved true, would indicate more than a minor
30 infraction; or

31 (2) investigative information that indicates that the subject licensee
32 represents an immediate threat to public health and safety regardless of
33 whether the subject licensee has been notified and had an opportunity to
34 respond.

35 (k) "Data system" means a repository of information about licensees,
36 including, but not limited to, continuing education, examination, licensure,
37 investigative, compact privilege and adverse action information.

38 (l) "Encumbered license" means a license in which an adverse action
39 restricts a licensee's ability to practice dietetics.

40 (m) "Encumbrance" means a revocation or suspension of, or any
41 limitation on, a licensee's full and unrestricted practice of dietetics by a
42 licensing authority.

43 (n) "Executive committee" means a group of delegates elected or

1 appointed to act on behalf of, and within the powers granted to them by,
2 this compact and the compact commission.

3 (o) "Home state" means the member state that is the licensee's
4 primary state of residence or that has been designated pursuant to section
5 6.

6 (p) "Investigative information" means information, records and
7 documents received or generated by a licensing authority pursuant to an
8 investigation.

9 (q) "Jurisprudence requirement" means an assessment of an
10 individual's knowledge of the state laws and regulations governing the
11 practice of dietetics in such state.

12 (r) "License" means an authorization from a member state to either:

13 (1) Engage in the practice of dietetics, including medical nutrition
14 therapy; or

15 (2) use the title "dietitian," "licensed dietitian," "licensed dietitian
16 nutritionist," "certified dietitian" or other title describing a substantially
17 similar practitioner as the compact commission may further define by rule.

18 (s) "Licensee" or "licensed dietitian" means an individual who
19 currently holds a license and who meets all of the requirements outlined in
20 section 4.

21 (t) "Licensing authority" means the board or agency of a state, or
22 equivalent, that is responsible for the licensing and regulation of the
23 practice of dietetics.

24 (u) "Member state" means a state that has enacted the compact.

25 (v) "Practice of dietetics" means the synthesis and application of
26 dietetics as defined by state law and regulations, primarily for the
27 provision of nutrition care services, including medical nutrition therapy, in
28 person or via telehealth, to prevent, manage or treat diseases or medical
29 conditions and promote wellness.

30 (w) "Registered dietitian" means a person who:

31 (1) Has completed applicable education, experience, examination and
32 recertification requirements approved by CDR;

33 (2) is credentialed by CDR as a registered dietitian or a registered
34 dietitian nutritionist; and

35 (3) is legally authorized to use the title registered dietitian or
36 registered dietitian nutritionist and the corresponding abbreviations "RD"
37 or "RDN."

38 (x) "Remote state" means a member state other than the home state
39 where a licensee is exercising or seeking to exercise a compact privilege.

40 (y) "Rule" means a regulation promulgated by the compact
41 commission that has the force of law.

42 (z) "Single state license" means a license issued by a member state
43 within the issuing state and does not include a compact privilege in any

1 other member state.

2 (aa) "State" means any state, commonwealth, district or territory of
3 the United States of America.

4 (bb) "Unencumbered license" means a license that authorizes a
5 licensee to engage in the full and unrestricted practice of dietetics.

6 SECTION 3—STATE PARTICIPATION IN THE COMPACT

7 (a) To participate in the compact, a state shall currently:

8 (1) License and regulate the practice of dietetics; and

9 (2) have a mechanism in place for receiving and investigating
10 complaints about licensees.

11 (b) A member state shall:

12 (1) Participate fully in the compact commission's data system,
13 including using the unique identifier as defined in rules;

14 (2) notify the compact commission, in compliance with the terms of
15 the compact and rules, of any adverse action or the availability of current
16 significant investigative information regarding a licensee;

17 (3) implement or utilize procedures for considering the criminal
18 history record information of applicants for an initial compact privilege.
19 These procedures shall include the submission of fingerprints or other
20 biometric-based information by applicants for the purpose of obtaining an
21 applicant's criminal history record information from the federal bureau of
22 investigation and the agency responsible for retaining that state's criminal
23 records;

24 (A) A member state shall fully implement a criminal history record
25 information requirement, within a time frame established by rule, that
26 includes receiving the results of the federal bureau of investigation record
27 search and shall use those results in determining compact privilege
28 eligibility; and

29 (B) communication between a member state and the compact
30 commission or among member states regarding the verification of
31 eligibility for a compact privilege shall not include any information
32 received from the federal bureau of investigation relating to a federal
33 criminal history record information check performed by a member state;

34 (4) comply with and enforce the rules of the compact commission;

35 (5) require an applicant for a compact privilege to obtain or retain a
36 license in the licensee's home state and meet the home state's qualifications
37 for licensure or renewal of licensure, as well as all other applicable state
38 laws; and

39 (6) recognize a compact privilege granted to a licensee who meets all
40 of the requirements outlined in section 4 in accordance with the terms of
41 the compact and rules.

42 (c) Member states may set and collect a fee for granting a compact
43 privilege.

1 (d) Individuals not residing in a member state shall continue to be
2 able to apply for a member state's single state license as provided under the
3 laws of each member state. However, the single state license granted to
4 these individuals shall not be recognized as granting a compact privilege to
5 engage in the practice of dietetics in any other member state.

6 (e) Nothing in this compact shall affect the requirements established
7 by a member state for the issuance of a single state license.

8 (f) At no point shall the compact commission have the power to
9 define the requirements for the issuance of a single state license to practice
10 dietetics. The member states shall retain sole jurisdiction over the
11 provision of these requirements.

12 SECTION 4—COMPACT PRIVILEGE

13 (a) To exercise the compact privilege under the terms and provisions
14 of the compact, the licensee shall:

15 (1) Satisfy one of the following:

16 (A) Hold a valid current registration that gives the applicant the right
17 to use the term registered dietitian; or

18 (B) complete all of the following:

19 (i) An education program that is either:

20 (a) A master's degree or doctoral degree that is programmatically
21 accredited by: (i) ACEND; or (ii) a dietetics accrediting agency recognized
22 by the United States department of education, that the compact
23 commission may by rule determine, and from a college or university
24 accredited at the time of graduation by the appropriate regional accrediting
25 agency recognized by the council on higher education accreditation and
26 the United States department of education;

27 (b) an academic degree from a college or university in a foreign
28 country equivalent to the degree described in subparagraph (a) that is
29 programmatically accredited by (i) ACEND; or (ii) a dietetics accrediting
30 agency recognized by the United States department of education, that the
31 compact commission may by rule determine;

32 (ii) planned, documented and supervised practice experience in
33 dietetics that is programmatically accredited by: (i) ACEND; or (ii) a
34 dietetics accrediting agency recognized by the United States department of
35 education that the compact commission may by rule determine and that
36 involves at least 1000 hours of practice experience under the supervision
37 of a registered dietitian or a licensed dietitian; and

38 (iii) successful completion of either: (i) The registration examination
39 for dietitians administered by CDR; or (ii) a national credentialing
40 examination for dietitians approved by the compact commission by rule,
41 such completion being no more than five years prior to the date of the
42 licensee's application for initial licensure and accompanied by a period of
43 continuous licensure thereafter, all of which may be further governed by

1 the rules of the compact commission;

2 (2) hold an unencumbered license in the home state;

3 (3) notify the compact commission that the licensee is seeking a
4 compact privilege within a remote state;

5 (4) pay any applicable fees, including any state fee, for the compact
6 privilege;

7 (5) meet any jurisprudence requirements established by the remote
8 state where the licensee is seeking a compact privilege; and

9 (6) report to the compact commission any adverse action,
10 encumbrance or restriction on a license taken by any non-member state
11 within 30 days from the date the action is taken. The compact privilege
12 shall be valid until the expiration date of the home state license. To
13 maintain a compact privilege, renewal of the compact privilege shall be
14 congruent with the renewal of the home state license as the compact
15 commission may define by rule. The licensee shall comply with the
16 requirements of section 4(a) to maintain the compact privilege in the
17 remote state.

18 (b) The compact privilege shall be valid until the expiration date of
19 the home state license. To maintain a compact privilege, renewal of the
20 compact privilege shall be congruent with the renewal of the home state
21 license as the compact commission may define by rule. The licensee shall
22 comply with the requirements of section 4(a) to maintain the compact
23 privilege in the remote state.

24 (c) A licensee exercising a compact privilege shall adhere to the laws
25 and regulations of the remote state. Licensees shall be responsible for
26 educating themselves on, and complying with, any and all state laws
27 relating to the practice of dietetics in such remote state.

28 (d) Notwithstanding anything to the contrary provided in this
29 compact or state law, a licensee exercising a compact privilege shall not be
30 required to complete continuing education requirements required by a
31 remote state. A licensee exercising a compact privilege shall only be
32 required to meet any continuing education requirements as required by the
33 home state.

34 SECTION 5—OBTAINING A NEW HOME STATE LICENSE
35 BASED ON A COMPACT PRIVILEGE

36 (a) A licensee may hold a home state license, that allows for a
37 compact privilege in other member states, in only one member state at a
38 time.

39 (b) If a licensee changes home state by moving between two member
40 states:

41 (1) The licensee shall file an application for obtaining a new home
42 state license based on a compact privilege, pay all applicable fees and
43 notify the current and new home state in accordance with the rules of the

1 compact commission.

2 (2) Upon receipt of an application for obtaining a new home state
3 license by virtue of a compact privilege, the new home state shall verify
4 that the licensee meets the criteria in section 4 via the data system and
5 require that the licensee complete the following:

6 (A) Federal bureau of investigation fingerprint-based criminal history
7 record information check;

8 (B) any other criminal history record information required by the new
9 home state; and

10 (C) any jurisprudence requirements of the new home state.

11 (3) The former home state shall convert the former home state license
12 into a compact privilege once the new home state has activated the new
13 home state license in accordance with applicable rules adopted by the
14 compact commission.

15 (4) Notwithstanding any other provision of this compact, if the
16 licensee cannot meet the criteria in section 4, the new home state may
17 apply its requirements for issuing a new single state license.

18 (5) The licensee shall pay all applicable fees to the new home state in
19 order to be issued a new home state license.

20 (c) If a licensee changes their state of residence by moving from a
21 member state to a non-member state, or from a non-member state to a
22 member state, the state criteria shall apply for issuance of a single state
23 license in the new state.

24 (d) Nothing in this compact shall interfere with a licensee's ability to
25 hold a single state license in multiple states; however, for the purposes of
26 this compact, a licensee shall have only one home state license.

27 (e) Nothing in this compact shall affect the requirements established
28 by a member state for the issuance of a single state license.

29 SECTION 6—ACTIVE MILITARY MEMBERS OR THEIR 30 SPOUSES

31 An active military member, or their spouse, shall designate a home
32 state where the individual has a current license in good standing. The
33 individual may retain the home state designation during the period the
34 service member is on active duty.

35 SECTION 7—ADVERSE ACTIONS

36 (a) In addition to the other powers conferred by state law, a remote
37 state shall have the authority, in accordance with existing state due process
38 law, to:

39 (1) Take adverse action against a licensee's compact privilege within
40 that member state; and

41 (2) issue subpoenas for both hearings and investigations that require
42 the attendance and testimony of witnesses as well as the production of
43 evidence. Subpoenas issued by a licensing authority in a member state for

1 the attendance and testimony of witnesses or the production of evidence
2 from another member state shall be enforced in the latter state by any court
3 of competent jurisdiction, according to the practice and procedure
4 applicable to subpoenas issued in proceedings pending before that court.
5 The issuing authority shall pay any witness fees, travel expenses, mileage
6 and other fees required by the service statutes of the state where the
7 witnesses or evidence are located.

8 (b) Only the home state shall have the power to take adverse action
9 against a licensee's home state license.

10 (c) For purposes of taking adverse action, the home state shall give
11 the same priority and effect to reported conduct received from a member
12 state as it would if the conduct had occurred within the home state. In so
13 doing, the home state shall apply its own state laws to determine
14 appropriate action.

15 (d) The home state shall complete any pending investigations of a
16 licensee who changes home states during the course of the investigations.
17 The home state shall also have authority to take appropriate action and
18 shall promptly report the conclusions of the investigations to the
19 administrator of the data system. The administrator of the data system shall
20 promptly notify the new home state of any adverse actions.

21 (e) A member state, if otherwise permitted by state law, may recover
22 from the affected licensee the costs of investigations and dispositions of
23 cases resulting from any adverse action taken against that licensee.

24 (f) A member state may take adverse action based on the factual
25 findings of another remote state, provided that the member state follows its
26 own procedures for taking the adverse action.

27 (g) Joint investigations:

28 (1) In addition to the authority granted to a member state by its
29 respective state law, any member state may participate with other member
30 states in joint investigations of licensees.

31 (2) Member states shall share any investigative, litigation or
32 compliance materials in furtherance of any joint investigation initiated
33 under the compact.

34 (h) If adverse action is taken by the home state against a licensee's
35 home state license resulting in an encumbrance on the home state license,
36 the licensee's compact privilege in all other member states shall be revoked
37 until all encumbrances have been removed from the home state license. All
38 home state disciplinary orders that impose adverse action against a
39 licensee shall include a statement that the licensee's compact privileges are
40 revoked in all member states during the pendency of the order.

41 (i) Once an encumbered license in the home state is restored to an
42 unencumbered license as certified by the home state's licensing authority,
43 the licensee shall meet the requirements of section 4(a) and follow the

1 administrative requirements to reapply to obtain a compact privilege in
2 any remote state.

3 (j) If a member state takes adverse action, it shall promptly notify the
4 administrator of the data system. The administrator of the data system shall
5 promptly notify the other member states state of any adverse actions.

6 (k) Nothing in this compact shall override a member state's decision
7 that participation in an alternative program may be used in lieu of adverse
8 action.

9 SECTION 8—ESTABLISHMENT OF THE DIETITIAN
10 LICENSURE COMPACT COMMISSION

11 (a) The compact member states hereby create and establish a joint
12 government agency whose membership consists of all member states that
13 have enacted the compact known as the dietitian licensure compact
14 commission. The compact commission is an instrumentality of the
15 compact states acting jointly and not an instrumentality of any one state.
16 The compact commission shall come into existence on or after the
17 effective date of the compact as set forth in section 12.

18 (b) Membership, voting and meetings.

19 (1) Each member state shall have and be limited to one delegate
20 selected by that member state's licensing authority.

21 (2) The delegate shall be the primary administrator of the licensing
22 authority or their designee.

23 (3) The compact commission shall by rule or bylaw establish a term
24 of office for delegates and may by rule or bylaw establish term limits.

25 (4) The compact commission may recommend removal or suspension
26 of any delegate from office.

27 (5) A member state's licensing authority shall fill any vacancy of its
28 delegate occurring on the compact commission within 60 days of the
29 vacancy.

30 (6) Each delegate shall be entitled to one vote on all matters before
31 the compact commission requiring a vote by the delegates.

32 (7) Delegates shall meet and vote by such means as set forth in the
33 bylaws. The bylaws may provide for delegates to meet and vote in person
34 or by telecommunication, video conference or other means of
35 communication.

36 (8) The compact commission shall meet at least once during each
37 calendar year. Additional meetings may be held as set forth in the bylaws.
38 The compact commission may meet in person or by telecommunication,
39 video conference or other means of communication.

40 (c) The compact commission shall have the following powers:

41 (1) Establish the fiscal year of the compact commission;

42 (2) establish code of conduct and conflict of interest policies;

43 (3) establish and amend rules and bylaws;

- 1 (4) maintain its financial records in accordance with the bylaws;
- 2 (5) meet and take such actions as are consistent with the provisions of
3 this compact, the compact commission's rules and the bylaws;
- 4 (6) initiate and conclude legal proceedings or actions in the name of
5 the compact commission, provided that the standing of any licensing
6 authority to sue or be sued under applicable law shall not be affected;
- 7 (7) maintain and certify records and information provided to a
8 member state as the authenticated business records of the compact
9 commission and designate an agent to do so on the compact commission's
10 behalf;
- 11 (8) purchase and maintain insurance and bonds;
- 12 (9) borrow, accept or contract for services of personnel, including, but
13 not limited to, employees of a member state;
- 14 (10) conduct an annual financial review;
- 15 (11) hire employees, elect or appoint officers, fix compensation,
16 define duties, grant such individuals appropriate authority to carry out the
17 purposes of the compact and establish the compact commission's personnel
18 policies and programs relating to conflicts of interest, qualifications of
19 personnel and other related personnel matters;
- 20 (12) assess and collect fees;
- 21 (13) accept any and all appropriate donations, grants of money, other
22 sources of revenue, equipment, supplies, materials, services and gifts, and
23 receive, utilize and dispose of the same provided that at all times the
24 compact commission shall avoid any actual or appearance of impropriety
25 or conflict of interest;
- 26 (14) lease, purchase, retain, own, hold, improve or use any property,
27 real, personal or mixed or any undivided interest therein;
- 28 (15) sell, convey, mortgage, pledge, lease, exchange, abandon or
29 otherwise dispose of any property real, personal or mixed;
- 30 (16) establish a budget and make expenditures;
- 31 (17) borrow money;
- 32 (18) appoint committees, including standing committees, composed
33 of members, state regulators, state legislators or their representatives,
34 consumer representatives and such other interested persons as may be
35 designated in this compact or the bylaws;
- 36 (19) provide and receive information from, and cooperate with, law
37 enforcement agencies;
- 38 (20) establish and elect an executive committee, including a chair and
39 a vice chair;
- 40 (21) determine whether a state's adopted language is materially
41 different from the model compact language such that the state would not
42 qualify for participation in the compact; and
- 43 (22) perform such other functions as may be necessary or appropriate

1 to achieve the purposes of this compact.

2 (d) The executive committee.

3 (1) The executive committee shall have the power to act on behalf of
4 the compact commission according to the terms of this compact. The
5 powers, duties and responsibilities of the executive committee shall
6 include:

7 (A) Oversee the day-to-day activities of the administration of the
8 compact including enforcement and compliance with the provisions of the
9 compact and its rules and bylaws and other such duties as deemed
10 necessary;

11 (B) recommend to the compact commission changes to the rules or
12 bylaws, changes to this compact legislation, fees charged to compact
13 member states, fees charged to licensees and other fees;

14 (C) ensure compact administration services are appropriately
15 provided, including by contract;

16 (D) prepare and recommend the budget;

17 (E) maintain financial records on behalf of the compact commission;

18 (F) monitor compact compliance of member states and provide
19 compliance reports to the compact commission;

20 (G) establish additional committees as necessary;

21 (H) exercise the powers and duties of the compact commission during
22 the interim between compact commission meetings, except for adopting or
23 amending rules, adopting or amending bylaws and exercising any other
24 powers and duties expressly reserved to the compact commission by rule
25 or bylaw; and

26 (I) other duties as provided in the rules or bylaws of the compact
27 commission.

28 (2) the executive committee shall be composed of nine members:

29 (A) The chair and vice chair of the compact commission shall be
30 voting members of the executive committee;

31 (B) five voting members from the current membership of the compact
32 commission, elected by the compact commission;

33 (C) one ex-officio, nonvoting member from a recognized professional
34 association representing dietitians; and

35 (D) one ex-officio, nonvoting member from a recognized national
36 credentialing organization for dietitians.

37 (3) The compact commission may remove any member of the
38 executive committee as provided in the compact commission's bylaws.

39 (4) The executive committee shall meet at least annually.

40 (A) Executive committee meetings shall be open to the public, except
41 that the executive committee may meet in a closed, non-public meeting as
42 provided in subsection (f)(2).

43 (B) The executive committee shall give 30 days' notice of its

1 meetings, posted on the website of the compact commission and as
2 determined to provide notice to persons with an interest in the business of
3 the compact commission.

4 (C) The executive committee may hold a special meeting in
5 accordance with subsection (f)(1)(B).

6 (e) The compact commission shall adopt and provide to the member
7 states an annual report.

8 (f) Meetings of the compact commission.

9 (1) All meetings shall be open to the public, except that the compact
10 commission may meet in a closed, non-public meeting as provided in
11 subsection (f)(2).

12 (A) Public notice for all meetings of the full compact commission
13 shall be given in the same manner as required under the rulemaking
14 provisions in section 10, except that the compact commission may hold a
15 special meeting as provided in subsection (f)(1)(B).

16 (B) The compact commission may hold a special meeting when it
17 must meet to conduct emergency business by giving 24 hours' notice to all
18 member states on the compact commission's website and other means as
19 provided in the compact commission's rules. The compact commission's
20 legal counsel shall certify that the compact commission's need to meet
21 qualifies as an emergency.

22 (2) The compact commission or the executive committee or other
23 committees of the compact commission may convene in a closed, non-
24 public meeting for the compact commission or executive committee or
25 other committees of the compact commission to receive legal advice or to
26 discuss:

27 (A) Non-compliance of a member state with its obligations under the
28 compact;

29 (B) the employment, compensation, discipline or other matters,
30 practices or procedures related to specific employees;

31 (C) current or threatened discipline of a licensee by the compact
32 commission or by a member state's licensing authority;

33 (D) current, threatened or reasonably anticipated litigation;

34 (E) negotiation of contracts for the purchase, lease, or sale of goods,
35 services or real estate;

36 (F) accusing any person of a crime or formally censuring any person;

37 (G) trade secrets or commercial or financial information that is
38 privileged or confidential;

39 (H) information of a personal nature where disclosure would
40 constitute a clearly unwarranted invasion of personal privacy;

41 (I) investigative records compiled for law enforcement purposes;

42 (J) information related to any investigative reports prepared by or on
43 behalf of or for use of the compact commission or other committee

1 charged with responsibility of investigation or determination of
2 compliance issues pursuant to the compact;

3 (K) matters specifically exempted from disclosure by federal or
4 member state law; or

5 (L) other matters as specified in the rules of the compact commission.

6 (3) If a meeting, or portion of a meeting, is closed, the presiding
7 officer shall state that the meeting will be closed and reference each
8 relevant exempting provision, and such reference shall be recorded in the
9 minutes.

10 (4) The compact commission shall keep minutes that fully and clearly
11 describe all matters discussed in a meeting and shall provide a full and
12 accurate summary of actions taken, and the reasons therefore, including a
13 description of the views expressed. All documents considered in
14 connection with an action shall be identified in such minutes. All minutes
15 and documents of a closed meeting shall remain under seal, subject to
16 release only by a majority vote of the compact commission or order of a
17 court of competent jurisdiction.

18 (g) Financing of the compact commission.

19 (1) The compact commission shall pay, or provide for the payment of,
20 the reasonable expenses of its establishment, organization and ongoing
21 activities.

22 (2) The compact commission may accept any and all appropriate
23 revenue sources as provided in subsection (c)(13).

24 (3) The compact commission may levy on and collect an annual
25 assessment from each member state and impose fees on licensees of
26 member states to whom it grants a compact privilege to cover the cost of
27 the operations and activities of the compact commission and its staff,
28 which shall, in a total amount, be sufficient to cover its annual budget as
29 approved each year for which revenue is not provided by other sources.
30 The aggregate annual assessment amount for member states shall be
31 allocated based upon a formula that the compact commission shall
32 promulgate by rule.

33 (4) The compact commission shall not incur obligations of any kind
34 prior to securing the funds adequate to meet the same, nor shall the
35 compact commission pledge the credit of any of the member states, except
36 by and with the authority of the member state.

37 (5) The compact commission shall keep accurate accounts of all
38 receipts and disbursements. The receipts and disbursements of the compact
39 commission shall be subject to the financial review and accounting
40 procedures established under its bylaws. However, all receipts and
41 disbursements of funds handled by the compact commission shall be
42 subject to an annual financial review by a certified or licensed public
43 accountant, and the report of the financial review shall be included in and

1 become part of the annual report of the compact commission.

2 (h) Qualified immunity, defense and indemnification.

3 (1) The members, officers, executive director, employees and
4 representatives of the compact commission shall be immune from suit and
5 liability, both personally and in their official capacity, for any claim for
6 damage to or loss of property or personal injury or other civil liability
7 caused by or arising out of any actual or alleged act, error or omission that
8 occurred, or that the person against whom the claim is made had a
9 reasonable basis for believing occurred within the scope of compact
10 commission employment, duties or responsibilities; provided that nothing
11 in this paragraph shall be construed to protect any such person from suit or
12 liability for any damage, loss, injury or liability caused by the intentional
13 or willful or wanton misconduct of that person. The procurement of
14 insurance of any type by the compact commission shall not in any way
15 compromise or limit the immunity granted hereunder.

16 (2) The compact commission shall defend any member, officer,
17 executive director, employee and representative of the compact
18 commission in any civil action seeking to impose liability arising out of
19 any actual or alleged act, error or omission that occurred within the scope
20 of compact commission employment, duties or responsibilities or as
21 determined by the compact commission that the person against whom the
22 claim is made had a reasonable basis for believing occurred within the
23 scope of compact commission employment, duties or responsibilities,
24 provided that nothing herein shall be construed to prohibit that person
25 from retaining their own counsel at their own expense, and, provided
26 further, that the actual or alleged act, error or omission did not result from
27 that person's intentional or willful or wanton misconduct.

28 (3) The compact commission shall indemnify and hold harmless any
29 member, officer, executive director, employee and representative of the
30 compact commission for the amount of any settlement or judgment
31 obtained against that person arising out of any actual or alleged act, error
32 or omission that occurred within the scope of compact commission
33 employment, duties or responsibilities, or that such person had a
34 reasonable basis for believing occurred within the scope of compact
35 commission employment, duties or responsibilities, provided that the
36 actual or alleged act, error or omission did not result from the intentional
37 or willful or wanton misconduct of that person.

38 (4) Nothing in this compact shall be construed as a limitation on the
39 liability of any licensee for professional malpractice or misconduct, which
40 shall be governed solely by any other applicable state laws.

41 (5) Nothing in this compact shall be interpreted to waive or otherwise
42 abrogate a member state's state action immunity or state action affirmative
43 defense with respect to antitrust claims under the Sherman Antitrust Act of

1 1890, the Clayton Act 15 U.S.C. §§ 12-27 or any other state or federal
2 antitrust or anticompetitive law or regulation.

3 (6) Nothing in this compact shall be construed to be a waiver of
4 sovereign immunity by the member states or by the compact commission.

5 SECTION 9—DATA SYSTEMS

6 (a) The compact commission shall provide for the development,
7 maintenance, operation and utilization of a coordinated data system.

8 (b) The compact commission shall assign each applicant for a
9 compact privilege a unique identifier, as determined by the rules.

10 (c) Notwithstanding any other provision of state law to the contrary, a
11 member state shall submit a uniform data set to the data system on all
12 individuals to whom this compact is applicable as required by the rules of
13 the compact commission, including:

14 (1) Identifying information;

15 (2) licensure data;

16 (3) adverse actions against a license or compact privilege and
17 information related thereto;

18 (4) non-confidential information related to alternative program
19 participation, the beginning and ending dates of such participation and
20 other information related to such participation not made confidential under
21 member state law;

22 (5) any denial of application for licensure and the reason for such
23 denial;

24 (6) the presence of current significant investigative information; and

25 (7) other information that may facilitate the administration of this
26 compact or the protection of the public, as determined by the rules of the
27 compact commission.

28 (d) The records and information provided to a member state pursuant
29 to this compact or through the data system, when certified by the compact
30 commission or an agent thereof, shall constitute the authenticated business
31 records of the compact commission, and shall be entitled to any associated
32 hearsay exception in any relevant judicial, quasi-judicial or administrative
33 proceedings in a member state.

34 (e) Current significant investigative information pertaining to a
35 licensee in any member state shall only be available to other member
36 states.

37 (f) Member states shall report any adverse action against a licensee
38 and to monitor the data system to determine whether any adverse action
39 has been taken against a licensee. Adverse action information pertaining to
40 a licensee in any member state shall be available to any other member
41 state.

42 (g) Member states contributing information to the data system may
43 designate information that shall not be shared with the public without the

1 express permission of the contributing state.

2 (h) Any information submitted to the data system that is subsequently
3 expunged pursuant to federal law or the laws of the member state
4 contributing the information shall be removed from the data system.

5 SECTION 10—RULEMAKING

6 (a) The compact commission shall promulgate reasonable rules in
7 order to effectively and efficiently implement and administer the purposes
8 and provisions of the compact. A rule shall be invalid and have no force or
9 effect only if a court of competent jurisdiction holds that the rule is invalid
10 because the compact commission exercised its rulemaking authority in a
11 manner that is beyond the scope and purposes of the compact, or the
12 powers granted hereunder, or based upon another applicable standard of
13 review.

14 (b) The rules of the compact commission shall have the force of law
15 in each member state, provided however that where the rules conflict with
16 the laws or regulations of a member state that relate to the procedures,
17 actions and processes a licensed dietitian is permitted to undertake in that
18 state and the circumstances under which they may do so, as held by a court
19 of competent jurisdiction, the rules of the compact commission shall be
20 ineffective in that state to the extent of the conflict.

21 (c) The compact commission shall exercise its rulemaking powers
22 pursuant to the criteria set forth in this section and the rules adopted
23 thereunder. Rules shall become binding on the day following adoption or
24 as of the date specified in the rule or amendment, whichever is later.

25 (d) If a majority of the legislatures of the member states rejects a rule
26 or portion of a rule, by enactment of a statute or resolution in the same
27 manner used to adopt the compact within four years of the date of adoption
28 of the rule, then such rule shall have no further force and effect in any
29 member state.

30 (e) Rules shall be adopted at a regular or special meeting of the
31 compact commission.

32 (f) Prior to adoption of a proposed rule, the compact commission
33 shall hold a public hearing and allow persons to provide oral and written
34 comments, data, facts, opinions and arguments.

35 (g) Prior to adoption of a proposed rule by the compact commission,
36 and at least 30 days in advance of the meeting at which the compact
37 commission will hold a public hearing on the proposed rule, the compact
38 commission shall provide a notice of proposed rulemaking:

39 (1) On the website of the compact commission or other publicly
40 accessible platform;

41 (2) to persons who have requested notice of the compact
42 commission's notices of proposed rulemaking; and

43 (3) in such other way as the compact commission may by rule

1 specify.

2 (h) the notice of proposed rulemaking shall include:

3 (1) The time, date and location of the public hearing at which the
4 compact commission will hear public comments on the proposed rule and,
5 if different, the time, date and location of the meeting where the compact
6 commission will consider and vote on the proposed rule;

7 (2) if the hearing is held via telecommunication, video conference or
8 other means of communication, the compact commission shall include the
9 mechanism for access to the hearing in the notice of proposed rulemaking;

10 (3) the text of the proposed rule and the reason therefore;

11 (4) a request for comments on the proposed rule from any interested
12 person; and

13 (5) the manner in which interested persons may submit written
14 comments.

15 (i) All hearings shall be recorded. A copy of the recording and all
16 written comments and documents received by the compact commission in
17 response to the proposed rule shall be available to the public.

18 (j) Nothing in this section shall be construed as requiring a separate
19 hearing on each rule. Rules may be grouped for the convenience of the
20 compact commission at hearings required by this section.

21 (k) The compact commission shall, by majority vote of all members,
22 take final action on the proposed rule based on the rulemaking record and
23 the full text of the rule.

24 (1) The compact commission may adopt changes to the proposed rule
25 provided the changes do not enlarge the original purpose of the proposed
26 rule.

27 (2) The compact commission shall provide an explanation of the
28 reasons for substantive changes made to the proposed rule as well as
29 reasons for substantive changes not made that were recommended by
30 commenters.

31 (3) The compact commission shall determine a reasonable effective
32 date for the rule. Except for an emergency as provided in section 10(l), the
33 effective date of the rule shall be no sooner than 30 days after issuing the
34 notice that it adopted or amended the rule.

35 (l) Upon determination that an emergency exists, the compact
36 commission may consider and adopt an emergency rule with 24 hours'
37 notice, with opportunity to comment, provided that the usual rulemaking
38 procedures provided in the compact and this section shall be retroactively
39 applied to the rule as soon as reasonably possible, not later than 90 days
40 after the effective date of the rule. For the purposes of this provision, an
41 emergency rule is one that must be adopted immediately in order to:

42 (1) Meet an imminent threat to public health, safety or welfare;

43 (2) prevent a loss of compact commission or member state funds;

1 (3) meet a deadline for the promulgation of a rule that is established
2 by federal law or rule; or

3 (4) protect public health and safety.

4 (m) The compact commission or an authorized committee of the
5 compact commission may direct revision to a previously adopted rule for
6 purposes of correcting typographical errors, errors in format, errors in
7 consistency or grammatical errors. Public notice of any revision shall be
8 posted on the website of the compact commission. The revision shall be
9 subject to challenge by any person for a period of 30 days after posting.
10 The revision may be challenged only on grounds that the revision results
11 in a material change to a rule. A challenge shall be made in writing and
12 delivered to the compact commission prior to the end of the notice period.
13 If no challenge is made, the revision will take effect without further action.
14 If the revision is challenged, the revision may not take effect without the
15 approval of the compact commission.

16 (n) No member state's rulemaking requirements shall apply under this
17 compact.

18 SECTION 11—OVERSIGHT, DISPUTE RESOLUTION AND 19 ENFORCEMENT

20 (a) Oversight.

21 (1) The executive and judicial branches of state government in each
22 member state shall enforce this compact and take all actions necessary and
23 appropriate to implement this compact.

24 (2) Except as otherwise provided in this compact, venue is proper and
25 judicial proceedings by or against the compact commission shall be
26 brought solely and exclusively in a court of competent jurisdiction where
27 the principal office of the compact commission is located. The compact
28 commission may waive venue and jurisdictional defenses to the extent it
29 adopts or consents to participate in alternative dispute resolution
30 proceedings. Nothing herein shall affect or limit the selection or propriety
31 of venue in any action against a licensee for professional malpractice,
32 misconduct or any such similar matter.

33 (3) The compact commission shall be entitled to receive service of
34 process in any proceeding regarding the enforcement or interpretation of
35 the compact and shall have standing to intervene in such a proceeding for
36 all purposes. Failure to provide the compact commission service of process
37 shall render a judgment or order void as to the compact commission, this
38 compact or promulgated rules.

39 (b) Default, technical assistance and termination.

40 (1) If the compact commission determines that a member state has
41 defaulted in the performance of its obligations or responsibilities under
42 this compact or the promulgated rules, the compact commission shall
43 provide written notice to the defaulting state. The notice of default shall

1 describe the default, the proposed means of curing the default and any
2 other action that the compact commission may take and shall offer training
3 and specific technical assistance regarding the default.

4 (2) The compact commission shall provide a copy of the notice of
5 default to the other member states.

6 (c) If a state in default fails to cure the default, the defaulting state
7 may be terminated from the compact upon an affirmative vote of a
8 majority of the delegates of the member states, and all rights, privileges
9 and benefits conferred on that state by this compact may be terminated on
10 the effective date of termination. A cure of the default does not relieve the
11 offending state of obligations or liabilities incurred during the period of
12 default.

13 (d) Termination of membership in the compact shall be imposed only
14 after all other means of securing compliance have been exhausted. Notice
15 of intent to suspend or terminate shall be given by the compact
16 commission to the governor, the majority and minority leaders of the
17 defaulting state's legislature, the defaulting state's licensing authority and
18 each of the member states' licensing authority.

19 (e) A state that has been terminated is responsible for all assessments,
20 obligations and liabilities incurred through the effective date of
21 termination, including obligations that extend beyond the effective date of
22 termination.

23 (f) Upon the termination of a state's membership from this compact,
24 that state shall immediately provide notice to all licensees within that state
25 of such termination. The terminated state shall continue to recognize all
26 compact privileges granted pursuant to this compact for a minimum of six
27 months after the date of said notice of termination.

28 (g) The compact commission shall not bear any costs related to a state
29 that is found to be in default or that has been terminated from the compact,
30 unless agreed upon in writing between the compact commission and the
31 defaulting state.

32 (h) The defaulting state may appeal the action of the compact
33 commission by petitioning the United States district court for the District
34 of Columbia or the federal district where the compact commission has its
35 principal offices. The prevailing party shall be awarded all costs of such
36 litigation, including reasonable attorney fees.

37 (i) Dispute resolution.

38 (1) Upon request by a member state, the compact commission shall
39 attempt to resolve disputes related to the compact that arise among
40 member states and between member and non-member states.

41 (2) The compact commission shall promulgate a rule providing for
42 both mediation and binding dispute resolution for disputes as appropriate.

43 (j) Enforcement.

1 (1) By supermajority vote, the compact commission may initiate legal
2 action against a member state in default in the United States district court
3 for the District of Columbia or the federal district where the compact
4 commission has its principal offices to enforce compliance with the
5 provisions of the compact and its promulgated rules. The relief sought may
6 include both injunctive relief and damages. In the event judicial
7 enforcement is necessary, the prevailing party shall be awarded all costs of
8 such litigation, including reasonable attorney fees. The remedies herein
9 shall not be the exclusive remedies of the compact commission. The
10 compact commission may pursue any other remedies available under
11 federal or the defaulting member state's law.

12 (2) A member state may initiate legal action against the compact
13 commission in the United States District Court for the district of columbia
14 or the federal district where the compact commission has its principal
15 offices to enforce compliance with the provisions of the compact and its
16 promulgated rules. The relief sought may include both injunctive relief and
17 damages. In the event judicial enforcement is necessary, the prevailing
18 party shall be awarded all costs of such litigation, including reasonable
19 attorney fees.

20 (3) No party other than a member state shall enforce this compact
21 against the compact commission.

22 SECTION 12—EFFECTIVE DATE, WITHDRAWAL AND
23 AMENDMENT

24 (a) The compact shall come into effect on the date when the compact
25 statute is enacted into law in the seventh member state.

26 (1) On or after the effective date of the compact, the compact
27 commission shall convene and review the enactment of each of the first
28 seven member states, "charter member states," to determine if the statute
29 enacted by each such charter member state is materially different than the
30 model compact statute.

31 (A) A charter member state whose enactment is found to be
32 materially different from the model compact statute shall be entitled to the
33 default process set forth in section 11.

34 (B) If any member state is later found to be in default, or is
35 terminated or withdraws from the compact, the compact commission shall
36 remain in existence and the compact shall remain in effect even if the
37 number of member states should be less than seven.

38 (2) Member states enacting the compact subsequent to the seven
39 initial charter member states shall be subject to the process set forth in
40 section 8(c)(21) to determine if their enactments are materially different
41 from the model compact statute and whether they qualify for participation
42 in the compact.

43 (3) All actions taken for the benefit of the compact commission or in

1 furtherance of the purposes of the administration of the compact prior to
2 the effective date of the compact or the compact commission coming into
3 existence shall be considered to be actions of the compact commission
4 unless specifically repudiated by the compact commission.

5 (4) Any state that joins the compact subsequent to the compact
6 commission's initial adoption of the rules and bylaws shall be subject to
7 the rules and bylaws as they exist on the date on which the compact
8 becomes law in that state. Any rule that has been previously adopted by
9 the compact commission shall have the full force and effect of law on the
10 day the compact becomes law in that state.

11 (b) Any member state may withdraw from this compact by enacting a
12 statute repealing the same.

13 (1) A member state's withdrawal shall not take effect until 180 days
14 after enactment of the repealing statute.

15 (2) Withdrawal shall not affect the continuing requirement of the
16 withdrawing state's licensing authority to comply with the investigative
17 and adverse action reporting requirements of this compact prior to the
18 effective date of withdrawal.

19 (3) Upon the enactment of a statute withdrawing from this compact, a
20 state shall immediately provide notice of such withdrawal to all licensees
21 within that state. notwithstanding any subsequent statutory enactment to
22 the contrary, such withdrawing state shall continue to recognize all
23 compact privileges granted pursuant to this compact for a minimum of 180
24 days after the date of such notice of withdrawal.

25 (c) Nothing contained in this compact shall be construed to invalidate
26 or prevent any licensure agreement or other cooperative arrangement
27 between a member state and a non-member state that does not conflict
28 with the provisions of this compact.

29 (d) This compact may be amended by the member states. No
30 amendment to this compact shall become effective and binding upon any
31 member state until it is enacted into the laws of all member states.

32 SECTION 13—CONSTRUCTION AND SEVERABILITY

33 (a) This compact and the compact commission's rulemaking authority
34 shall be liberally construed so as to effectuate the purposes and the
35 implementation and administration of the compact. Provisions of the
36 compact expressly authorizing or requiring the promulgation of rules shall
37 not be construed to limit the compact commission's rulemaking authority
38 solely for those purposes.

39 (b) The provisions of this compact shall be severable and if any
40 phrase, clause, sentence or provision of this compact is held by a court of
41 competent jurisdiction to be contrary to the constitution of any member
42 state, a state seeking participation in the compact, or of the United States,
43 or the applicability thereof to any government, agency, person or

1 circumstance is held to be unconstitutional by a court of competent
2 jurisdiction, the validity of the remainder of this compact and the
3 applicability thereof to any other government, agency, person or
4 circumstance shall not be affected thereby.

5 (c) Notwithstanding section 13(b), the compact commission may
6 deny a state's participation in the compact or, in accordance with the
7 requirements of section 11(b), terminate a member state's participation in
8 the compact if it determines that a constitutional requirement of a member
9 state is a material departure from the compact. Otherwise, if this compact
10 shall be held to be contrary to the constitution of any member state, the
11 compact shall remain in full force and effect as to the remaining member
12 states and in full force and effect as to the member state affected as to all
13 severable matters.

14 SECTION 14—CONSISTENT EFFECT AND CONFLICT WITH
15 OTHER STATE LAWS

16 (a) Nothing in this compact shall prevent or inhibit the enforcement
17 of any other law of a member state that is not inconsistent with the
18 compact.

19 (b) Any laws, statutes, rules and regulations or other legal
20 requirements in a member state in conflict with the compact are
21 superseded to the extent of the conflict.

22 (c) All permissible agreements between the compact commission and
23 the member states are binding in accordance with their terms.

24 Sec. 2. This act shall take effect and be in force from and after its
25 publication in the statute book.