

HOUSE BILL No. 2069

By Committee on Commerce, Labor and Economic Development

Requested by William Wilk on behalf of the Kansas Chamber of Commerce

1-23

1 AN ACT concerning ~~health and healthcare~~ ***licensure compacts***; relating to
2 school psychologists; enacting the school psychologist compact to
3 provide interstate practice privileges; ***relating to dieticians; enacting***
4 ***the dietician compact to provide interstate practice privileges.***
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. This section shall be known and may be cited as the school
8 psychologist compact.

9 SECTION 1—PURPOSE

10 The purpose of this compact is to facilitate the interstate practice of
11 school psychology in educational or school settings and in so doing to
12 improve the availability of school psychological services to the public.
13 This compact is intended to establish a pathway to allow school
14 psychologists to obtain equivalent licenses to provide school psychological
15 services in any member state. In this way, this compact shall enable the
16 member states to ensure that safe and effective school psychological
17 services are available and delivered by appropriately qualified
18 professionals in their educational settings.

19 To facilitate the objectives described above, this compact:

20 (a) Enables school psychologists who qualify for receipt of an
21 equivalent license to practice in other member states without first
22 satisfying burdensome and duplicative requirements;

23 (b) promotes the mobility of school psychologists between and
24 among the member states in order to address workforce shortages and to
25 ensure that safe and reliable school psychological services are available in
26 each member state;

27 (c) enhances the public accessibility of school psychological services
28 by increasing the availability of qualified, licensed school psychologists
29 through the establishment of an efficient and streamlined pathway for
30 licensees to practice in other member states;

31 (d) preserves and respects the authority of each member state to
32 protect the health and safety of its residents by ensuring that only
33 qualified, licensed professionals are authorized to provide school

1 psychological services within that state;

2 (e) requires school psychologists practicing within a member state to
3 comply with the scope of practice laws present in the state where the
4 school psychological services are being provided;

5 (f) promotes cooperation between the member states in regulating the
6 practice of school psychology within those states; and

7 (g) facilitates the relocation of military members and their spouses
8 who are licensed to provide school psychological services.

9 SECTION 2—DEFINITIONS

10 As used in this compact:

11 (a) "Active military member" means any person with full-time duty
12 status in the armed forces of the United States, including members of the
13 national guard and reserve.

14 (b) "Adverse action" means disciplinary action or encumbrance
15 imposed on a license by a state licensing authority.

16 (c) "Alternative program" means a non-disciplinary, prosecutorial
17 diversion, monitoring or practice remediation process entered into in lieu
18 of an adverse action that is applicable to a school psychologist and
19 approved by the state licensing authority of a member state where the
20 participating school psychologist is licensed. This includes, but is not
21 limited to, programs that licensees with substance abuse or addiction
22 issues may be referred in lieu of an adverse action.

23 (d) "Commissioner" means the individual appointed by a member
24 state to serve as the representative to the commission for that member
25 state.

26 (e) "Compact" means this school psychologist interstate licensure
27 compact.

28 (f) "Continuing professional education" means a requirement,
29 imposed by a member state as a condition of license renewal to provide
30 evidence of successful participation in professional educational activities
31 relevant to the provision of school psychological services.

32 (g) "Criminal background check" means the submission of
33 fingerprints or other biometric information for a license applicant for the
34 purpose of obtaining that applicant's criminal history record information,
35 as defined in 28 C.F.R. § 20.3(d), and the state's criminal history record
36 repository, as defined in 28 C.F.R. § 20.3(f).

37 (h) "Doctoral level degree" means a graduate degree program that
38 consists of at least 90 graduate semester hours in the field of school
39 psychology, including a supervised internship.

40 (i) "Encumbered license" means a license that a state licensing
41 authority has limited in any way other than through an alternative
42 program, including temporary or provisional licenses.

43 (j) "Executive Committee" means the commission's chair, vice chair,

1 secretary and treasurer and any other commissioners as may be determined
2 by commission rule or bylaw.

3 (k) "Equivalent license" means a license to practice school
4 psychology that a member state has identified as a license that may be
5 provided to school psychologists from other member states pursuant to this
6 compact.

7 (l) "Home state" means the member state that issued the home state
8 license to the licensee and is the licensee's primary state of practice.

9 (m) "Home state license" means the license that is not an encumbered
10 license issued by the home state to provide school psychological services.

11 (n) "License" means a current license, certification or other
12 authorization granted by a member state's licensing authority that permits
13 an individual to provide school psychological services.

14 (o) "Licensee" means an individual who holds a license from a
15 member state to provide school psychological services.

16 (p) "Member state" means a state that has enacted the compact and
17 been admitted to the commission in accordance with the provisions herein
18 and commission rules.

19 (q) "Model compact" means the model language for the school
20 psychologist interstate licensure compact on file with the council of state
21 governments or other entity as designated by the commission.

22 (r) "Practice of school psychology" means the delivery school
23 psychological services.

24 (s) "Qualifying national exam" means a national licensing
25 examination endorsed by the national association of school psychologists
26 and any other exam as approved by the rules of the commission.

27 (t) "Qualifying school psychologist education program" means an
28 education program that awards a specialist-level degree or doctoral-level
29 degree or equivalent upon completion and is approved by the rules of the
30 commission as meeting the necessary minimum educational standards to
31 ensure that its graduates are ready, qualified and able to engage in the
32 practice of school psychology.

33 (u) "Remote state" means a member state other than the home state
34 where a licensee holds a license through the compact.

35 (v) "Rule" means a regulation promulgated by an entity, including,
36 but not limited to, the commission and the state licensing authority of each
37 member state that has the force of law.

38 (w) "School psychological services" means academic, mental and
39 behavioral health services, including assessment, prevention, consultation
40 and collaboration, intervention and evaluation provided by a school
41 psychologist in a school, as outlined in applicable professional standards
42 as determined by commission rule.

43 (x) "School psychologist" means an individual who has met the

1 requirements to obtain a home state license that legally conveys the
2 professional title of school psychologist or its equivalent as determined by
3 the rules of the commission.

4 (y) "School psychologist interstate licensure compact commission" or
5 "commission" means the joint government agency established by this
6 compact whose membership consists of representatives from each member
7 state that has enacted the compact, and as further described in section 7.

8 (z) "Scope of practice" means the procedures, actions and processes a
9 school psychologist licensed in a state is permitted to undertake in that
10 state and the circumstances under which that licensee is permitted to
11 undertake those procedures, actions and processes. Such procedures,
12 actions and processes, and the circumstances under which they may be
13 undertaken, may be established through means including, but not limited to,
14 statute, regulations, case law and other processes available to the state
15 licensing authority or other government agency.

16 (aa) "Specialist-level degree" means a degree program that requires
17 at least 60 graduate semester hours or equivalent in the field of school
18 psychology, including a supervised internship.

19 (bb) "State" means any state, commonwealth, district or territory of
20 the United States of America.

21 (cc) "State licensing authority" means a member state's regulatory
22 body responsible for issuing licenses or otherwise overseeing the practice
23 of school psychology.

24 (dd) "State specific requirement" means a requirement for licensure
25 covered in coursework or examination that includes content of unique
26 interest to the state.

27 (ee) "Unencumbered license" means a license that authorizes a
28 licensee to engage in the full and unrestricted practice of school
29 psychology.

30 SECTION 3—STATE PARTICIPATION IN THE COMPACT

31 (a) To be eligible to join this compact and to maintain eligibility as a
32 member state, a state must:

33 (1) Enact a compact statute that is not materially different from the
34 model compact as defined in the commission's rules;

35 (2) participate in the sharing of information with other member states
36 as reasonably necessary to accomplish the objectives of this compact and
37 as further defined in section 8;

38 (3) identify and maintain with the commission a list of equivalent
39 licenses available to licensees who hold a home state license under this
40 compact;

41 (4) have a mechanism in place for receiving and investigating
42 complaints about licensees;

43 (5) notify the commission, in compliance with the terms of the

1 compact and the commission's rules, of any adverse action taken against a
2 licensee or of the availability of investigative information that relates to a
3 licensee or applicant for licensure;

4 (6) require that applicants for a home state license have:

5 (A) Taken and passed a qualifying national exam as defined by the
6 rules of the commission; and

7 (B) completed a minimum of 1200 hours of supervised internship and
8 at least 600 of such hours must have been completed in a school prior to
9 being approved for licensure; and

10 (C) graduated from a qualifying school psychologist education
11 program; and

12 (7) comply with the terms of this compact and the rules of the
13 commission.

14 (b) Each member state shall grant an equivalent license to practice
15 school psychology in that state upon application by a licensee who
16 satisfies the criteria of section 4(a). Each member state shall grant renewal
17 of the equivalent license to a licensee who satisfies the criteria of section
18 4(b).

19 (c) Member states may set and collect a fee for granting an equivalent
20 license.

21 SECTION 4—SCHOOL PSYCHOLOGIST PARTICIPATION IN THE 22 COMPACT

23 (a) To obtain and maintain an equivalent license from a remote state
24 under this compact, a licensee must:

25 (1) Hold and maintain an active home state license;

26 (2) satisfy any applicable state specific requirements established by
27 the member state after an equivalent license is granted;

28 (3) complete any administrative or application requirements that the
29 commission may establish by rule and pay any associated fees;

30 (4) complete any requirements for renewal in the home state,
31 including applicable continuing professional education requirements; and

32 (5) upon their application to receive a license under this compact,
33 undergo a criminal background check in the member state where the
34 equivalent license is sought in accordance with the laws and regulations of
35 such member state.

36 (b) To renew an equivalent license in a member state other than the
37 home state, a licensee must only apply for renewal, complete a background
38 check and pay renewal fees as determined by the licensing authority.

39 SECTION 5—ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

40 A licensee who is an active military member or is the spouse of an
41 active military member shall be deemed to hold a home state license in any
42 of the following locations:

43 (a) The licensee's permanent residence;

- 1 (b) a member state that is the licensee's primary state of practice; or
2 (c) a member state where the licensee has relocated pursuant to a
3 permanent change of station (PCS).

4 SECTION 6—DISCIPLINE AND ADVERSE ACTIONS

5 (a) Nothing in this compact shall be deemed or construed to limit the
6 authority of a member state to investigate or impose disciplinary measures
7 on licensees according to the state practice laws thereof.

8 (b) Member states shall be authorized to receive and shall provide,
9 files and information regarding the investigation and discipline, if any, of
10 licensees in other member states upon request. Any member state receiving
11 such information or files shall protect and maintain the security and
12 confidentiality of such information or files, in at least the same manner
13 that it maintains its own investigatory or disciplinary files and information.
14 Prior to disclosing any disciplinary or investigatory information received
15 from another member state, the disclosing state shall communicate its
16 intention and purpose for such disclosure to the member state that
17 originally provided that information.

18 SECTION 7—ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST
19 ~~INTERSTATE LICENSURE~~ LICENSURE COMPACT COMMISSION

20 (a) The member states hereby create and establish a joint government
21 agency whose membership consists of all member states that have enacted
22 the compact, and this agency shall be known as the school psychologist
23 interstate licensure compact commission. The commission is an
24 instrumentality of the member states acting jointly and not an
25 instrumentality of any one state. The commission shall come into existence
26 on or after the effective date of the compact as set forth in section 11.

27 (b) Membership, voting and meetings.

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

30 (2) The delegate shall be the primary administrative officer of the
31 member state licensing authority or their designee who is an employee of
32 the member state licensing authority.

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

35 (4) The commission may recommend removal or suspension of any
36 delegate from office.

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

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

41 (7) A delegate shall vote in person or by such other means as
42 provided in the bylaws. The bylaws may provide for delegates to meet by
43 telecommunication, video conference or other means of communication.

1 (8) The commission shall meet at least once during each calendar
2 year. Additional meetings may be held as set forth in the bylaws. The
3 commission may meet by telecommunication, video conference or other
4 similar electronic means.

5 (c) The commission shall have the following powers:

6 (1) Establish the fiscal year of the commission;

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

8 (3) establish and amend rules and bylaws;

9 (4) establish the procedure through which a licensee may change their
10 home state;

11 (5) maintain its financial records in accordance with the bylaws;

12 (6) meet and take such actions as are consistent with the provisions of
13 this compact, the commission's rules and the bylaws;

14 (7) initiate and conclude legal proceedings or actions in the name of
15 the commission, provided that the standing of any member state licensing
16 authority to sue or be sued under applicable law shall not be affected;

17 (8) maintain and certify records and information provided to a
18 member state as the authenticated business records of the commission and
19 designate an agent to do so on the commission's behalf;

20 (9) purchase and maintain insurance and bonds;

21 (10) borrow, accept or contract for services of personnel, including,
22 but not limited to, employees of a member state;

23 (11) conduct an annual financial review;

24 (12) hire employees, elect or appoint officers, fix compensation,
25 define duties, grant such individuals appropriate authority to carry out the
26 purposes of the compact and establish the commission's personnel policies
27 and programs relating to conflicts of interest, qualifications of personnel
28 and other related personnel matters;

29 (13) assess and collect fees;

30 (14) accept any and all appropriate gifts, donations, grants of money,
31 other sources of revenue, equipment, supplies, materials and services, and
32 receive, utilize and dispose of the same, provided that at all times the
33 commission shall avoid any appearance of impropriety or conflict of
34 interest;

35 (15) lease, purchase, retain, own, hold, improve or use any property,
36 real, personal or mixed or any undivided interest in such property;

37 (16) sell, convey, mortgage, pledge, lease, exchange, abandon or
38 otherwise dispose of any property real, personal or mixed;

39 (17) establish a budget and make expenditures;

40 (18) borrow money;

41 (19) appoint committees, including standing committees, composed
42 of members, state regulators, state legislators or their representatives, and
43 consumer representatives, and such other interested persons as may be

1 designated in this compact and the bylaws;

2 (20) provide and receive information from, and cooperate with, law
3 enforcement agencies;

4 (21) establish and elect an executive committee, including a chair and
5 a vice chair;

6 (22) determine whether a state's adopted language is materially
7 different from the model compact language such that the state would not
8 qualify for participation in the compact; and

9 (23) perform such other functions as may be necessary or appropriate
10 to achieve the purposes of this compact.

11 (d) The executive committee.

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

15 (A) Oversee the day-to-day activities of the administration of the
16 compact, including enforcement and compliance with the provisions of the
17 compact, its rules and bylaws and other such duties as deemed necessary;

18 (B) recommend to the commission changes to the rules or bylaws,
19 changes to this compact legislation, fees charged to member states, fees
20 charged to licensees and other fees;

21 (C) ensure compact administration services are appropriately
22 provided, including by contract;

23 (D) prepare and recommend the budget;

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

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

27 (G) establish additional committees as necessary;

28 (H) exercise the powers and duties of the commission during the
29 interim between commission meetings, except for adopting or amending
30 rules, adopting or amending bylaws and exercising any other powers and
31 duties expressly reserved to the commission by rule or bylaw; and

32 (I) other duties as provided in the rules or bylaws of the commission.

33 (2) The executive committee shall be composed of up to seven
34 members:

35 (A) The chair and vice chair of the commission shall be voting
36 members of the executive committee; and

37 (B) The commission shall elect five voting members from the current
38 membership of the commission.

39 (2) The commission may remove any member of the executive
40 committee as provided in the commission's bylaws.

41 (3) The executive committee shall meet at least annually.

42 (A) Executive committee meetings shall be open to the public, except
43 that the executive committee may meet in a closed, nonpublic meeting as

1 provided in subsection (f)(2).

2 (B) The executive committee shall give 30 days' notice of its
3 meetings, posted on its website and as determined to provide notice to
4 persons with an interest in the business of the commission.

5 (C) The executive committee may hold a special meeting in
6 accordance with subsection

7 (f)(1)(B).

8 (e) The commission shall adopt and provide to the member states an
9 annual report.

10 (f) Meetings of the commission.

11 (1) All meetings shall be open to the public, except that the
12 commission may meet in a closed, nonpublic meeting as provided in
13 subsection (f)(2).

14 (A) Public notice for all meetings of the full commission of meetings
15 shall be given in the same manner as required under the rulemaking
16 provisions in section 9, except that the commission may hold a special
17 meeting as provided in subsection (f)(1)(B).

18 (B) The commission may hold a special meeting when it must meet to
19 conduct emergency business by giving 48 hours' notice to all
20 commissioners, on the commission's website, and other means as provided
21 in the commission's rules. The commission's legal counsel shall certify that
22 the commission's need to meet qualifies as an emergency.

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

27 (A) Noncompliance 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 commission
32 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 when 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 commission or other committee charged with

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

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

5 (L) other matters as promulgated by the commission by rule.

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 commission shall keep minutes that fully and clearly describe
11 all matters discussed in a meeting and shall provide a full and accurate
12 summary of actions taken and the reasons for such actions, 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 commission or order of a court of
17 competent jurisdiction.

18 (g) Financing of the commission.

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

22 (2) The commission may accept any and all appropriate revenue
23 sources as provided in subsection (c)(12).

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

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

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

1 (h) Qualified immunity, defense and indemnification.

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

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

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

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

37 (5) Nothing in this compact shall be interpreted to waive or otherwise
38 abrogate a member state's state action immunity or state action affirmative
39 defense with respect to antitrust claims under the Sherman antitrust act of
40 1890, Clayton act 15 U.S.C. §§ 12-27 or any other state or federal antitrust
41 or anticompetitive law or regulation.

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

1 SECTION 8—FACILITATING INFORMATION EXCHANGE

2 (a) The commission shall provide for facilitating the exchange of
3 information to administer and implement the provisions of this compact in
4 accordance with the rules of the commission, consistent with generally
5 accepted data protection principles.

6 (b) Notwithstanding any other provision of state law to the contrary, a
7 member state shall agree to provide for the facilitation of the following
8 licensee information as required by the rules of the commission, including:

9 (1) Identifying information;

10 (2) licensure data;

11 (3) adverse actions against a license and information related thereto;

12 (4) nonconfidential information related to alternative program
13 participation, the beginning and ending dates of such participation, and
14 other information related to such participation not made confidential under
15 member state law;

16 (5) any denial of application for licensure, and the reasons for such
17 denial;

18 (6) the presence of investigative information; and

19 (7) other information that may facilitate the administration of this
20 compact or the protection of the public, as determined by the rules of the
21 commission.

22 (c) Nothing in this compact shall be deemed or construed to alter,
23 limit or inhibit the power of a member state to control and maintain
24 ownership of its licensee information or alter, limit or inhibit the laws or
25 regulations governing licensee information in the member state.

26 SECTION 9—RULEMAKING

27 (a) The commission shall exercise its rulemaking powers pursuant to
28 the criteria set forth in this interstate compact and the rules adopted
29 thereunder. Rules and amendments shall become binding as of the date
30 specified in each rule or amendment.

31 (b) The commission shall promulgate reasonable rules to achieve the
32 intent and purpose of this interstate compact. In the event the commission
33 exercises its rulemaking authority in a manner that is beyond purpose and
34 intent of this interstate compact, or the powers granted hereunder, then
35 such an action by the commission shall be invalid and have no force and
36 effect of law in the member states.

37 (c) If a majority of the legislatures of the member states rejects a rule,
38 by enactment of a statute or resolution in the same manner used to adopt
39 the compact within four years of the date of adoption of the rule, then such
40 rule shall have no further force and effect in any member state.

41 (d) Rules or amendments to the rules shall be adopted or ratified at a
42 regular or special meeting of the commission in accordance with
43 commission rules and bylaws.

1 (e) Prior to promulgation and adoption of a final rule or rules by the
 2 commission, and at least 30 days in advance of the meeting when the rule
 3 will be considered and voted upon, the commission shall file a notice of
 4 proposed rulemaking:

5 (1) On the website of the commission or other publicly accessible
 6 platform; and

7 (2) on the website of each member state licensing authority or other
 8 publicly accessible platform or the publication where each state would
 9 otherwise publish proposed rules.

10 (f) Upon determination that an emergency exists, the commission
 11 may consider and adopt an emergency rule with 48 hours' notice, with
 12 opportunity to comment, provided that the usual rulemaking procedures
 13 shall be retroactively applied to the rule as soon as reasonably possible, in
 14 no event later than 90 days after the effective date of the rule. For the
 15 purposes of this provision, an emergency rule is one that must be adopted
 16 immediately in order to:

17 (1) Meet an imminent threat to public health, safety or welfare.

18 (A) Prevent a loss of commission or member state funds;

19 (B) meet a deadline for the promulgation of an administrative rule
 20 that is established by federal law or rule; or

21 (C) protect public health and safety.

22 SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND
 23 ENFORCEMENTENFORCEMENT

24 (a) Oversight.

25 (1) The executive and judicial branches of the state government in
 26 each member state shall enforce this compact and take all actions
 27 necessary and appropriate to implement the compact.

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

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

42 (b) Default, technical assistance and termination.

43 (1) If the commission determines that a member state has defaulted in

1 the performance of its obligations or responsibilities under this compact or
2 the promulgated rules, the commission shall provide written notice to the
3 defaulting state. The notice of default shall describe the default, the
4 proposed means of curing the default, and any other action that the
5 commission may take, and shall offer training and specific technical
6 assistance regarding the default.

7 (2) The commission shall provide a copy of the notice of default to
8 the other member states.

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

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

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

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

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

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

39 (i) Dispute resolution.

40 (1) Upon request by a member state, the commission shall attempt to
41 resolve disputes related to the compact that arise among member states and
42 between member and nonmember states.

43 (2) The commission shall promulgate a rule providing for both

1 mediation and binding dispute resolution for disputes as appropriate.

2 (j) Enforcement.

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

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

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

23 SECTION 11—EFFECTIVE DATE, WITHDRAWAL AND
24 AMENDMENT

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

27 (1) On or after the effective date of the compact indicated above, the
28 commission shall convene and review the enactment of each of the charter
29 member states to determine if the statute enacted by each such charter
30 member state is materially different than the 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 10.

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

38 (2) Member states enacting the compact subsequent to the charter
39 member states shall be subject to the process set forth in section 7(c)(21)
40 to determine if their enactments are materially different from the model
41 compact statute and whether they qualify for participation in the compact.

42 (3) All actions taken for the benefit of the commission or in
43 furtherance of the purposes of the administration of the compact prior to

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

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

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

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

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

18 (d) Upon the enactment of a statute withdrawing from this compact, a
19 state shall immediately provide notice of such withdrawal to all licensees
20 within that state. Notwithstanding any subsequent statutory enactment to
21 the contrary, such withdrawing state shall continue to recognize all
22 licenses granted pursuant to this compact for a minimum of six months
23 after the date of such notice of withdrawal.

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

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

31 SECTION 12—CONSTRUCTION AND SEVERABILITY

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

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

1 applicability thereof to any other government, agency, person or
2 circumstance shall not be affected thereby.

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

12 SECTION 13—CONSISTENT EFFECT AND CONFLICT WITH 13 OTHER STATE LAWS

14 (a) Nothing herein shall prevent or inhibit the enforcement of any
15 other law of a member state that is not inconsistent with the compact.

16 (b) Any laws, statutes, regulations, or other legal requirements in a
17 member state in conflict with the compact are superseded to the extent of
18 the conflict.

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

21 ***Sec. 2. This section shall be known and may be cited as the dietitian***
22 ***compact.***

23 SECTION 1—PURPOSE

24 ***The purpose of this compact is to facilitate interstate practice of***
25 ***dietetics with the goal of improving public access to dietetics services.***
26 ***This compact preserves the regulatory authority of states to protect***
27 ***public health and safety through the current system of state licensure***
28 ***while also providing for licensure portability through a compact***
29 ***privilege granted to qualifying professionals. This compact is designed to***
30 ***achieve the following objectives:***

- 31 (a) ***Increase public access to dietetics services;***
32 (b) ***provide opportunities for interstate practice by licensed***
33 ***dietitians who meet uniform requirements;***
34 (c) ***eliminate the necessity for licenses in multiple states;***
35 (d) ***reduce administrative burden on member states and licensees;***
36 (e) ***enhance the states' ability to protect the public's health and***
37 ***safety;***
38 (f) ***encourage the cooperation of member states in regulating***
39 ***multistate practice of licensed dietitians;***
40 (g) ***support relocating active military members and their spouses;***
41 (h) ***enhance the exchange of licensure, investigative and***
42 ***disciplinary information among member states; and***
43 (i) ***vest all member states with the authority to hold a licensed***

1 *dietitian accountable for meeting all state practice laws in the state*
2 *where the patient is located at the time care is rendered.*

3 **SECTION 2—DEFINITIONS**

4 *As used in this compact, and except as otherwise provided, the*
5 *following definitions apply:*

6 (a) *"ACEND" means the accreditation council for education in*
7 *nutrition and dietetics or its successor organization.*

8 (b) *"Active military member" means any individual with full-time*
9 *duty status in the active armed forces of the United States, including*
10 *members of the national guard and reserve.*

11 (c) *"Adverse action" means any administrative, civil, equitable or*
12 *criminal action permitted by a state's laws that is imposed by a licensing*
13 *authority or other authority against a licensee, including actions against*
14 *an individual's license or compact privilege such as revocation,*
15 *suspension, probation, monitoring of the licensee, limitation on the*
16 *licensee's practice or any other encumbrance on licensure affecting a*
17 *licensee's authorization to practice, including issuance of a cease and*
18 *desist action.*

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

21 (e) *"CDR" means the commission on dietetic registration or its*
22 *successor organization.*

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

25 (g) *"Continuing education" means a requirement as a condition of*
26 *license renewal, to provide evidence of participation in, and completion*
27 *of, educational and professional activities relevant to practice or area of*
28 *work.*

29 (h) *"Compact commission" means the governmental agency whose*
30 *membership consists of all states that have enacted this compact, which*
31 *is known as the dietitian licensure compact commission, as described in*
32 *section 8, and which shall operate as an instrumentality of the member*
33 *states.*

34 (i) *"Compact privilege" means a legal authorization, which is*
35 *equivalent to a license, permitting the practice of dietetics in a remote*
36 *state.*

37 (j) *"Current significant investigative information" means:*

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

43 (2) *investigative information that indicates that the subject licensee*

1 *represents an immediate threat to public health and safety regardless of*
2 *whether the subject licensee has been notified and had an opportunity to*
3 *respond.*

4 *(k) "Data system" means a repository of information about*
5 *licensees, including, but not limited to, continuing education,*
6 *examination, licensure, investigative, compact privilege and adverse*
7 *action information.*

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

10 *(m) "Encumbrance" means a revocation or suspension of, or any*
11 *limitation on, a licensee's full and unrestricted practice of dietetics by a*
12 *licensing authority.*

13 *(n) "Executive committee" means a group of delegates elected or*
14 *appointed to act on behalf of and within the powers granted to them by*
15 *this compact and the compact commission.*

16 *(o) "Home state" means the member state that is the licensee's*
17 *primary state of residence or that has been designated pursuant to*
18 *section 6.*

19 *(p) "Investigative information" means information, records and*
20 *documents received or generated by a licensing authority pursuant to an*
21 *investigation.*

22 *(q) "Jurisprudence requirement" means an assessment of an*
23 *individual's knowledge of the state laws and regulations governing the*
24 *practice of dietetics in such state.*

25 *(r) "License" means an authorization from a member state to*
26 *either:*

27 *(1) Engage in the practice of dietetics, including medical nutrition*
28 *therapy; or*

29 *(2) use the title "dietitian," "licensed dietitian," "licensed dietitian*
30 *nutritionist," "certified dietitian" or other title describing a substantially*
31 *similar practitioner as the compact commission may further define by*
32 *rule.*

33 *(s) "Licensee" or "licensed dietitian" means an individual who*
34 *currently holds a license and who meets all of the requirements outlined*
35 *in section 4.*

36 *(t) "Licensing authority" means the board or agency of a state, or*
37 *equivalent, that is responsible for the licensing and regulation of the*
38 *practice of dietetics.*

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

40 *(v) "Practice of dietetics" means the synthesis and application of*
41 *dietetics as defined by state law and regulations, primarily for the*
42 *provision of nutrition care services, including medical nutrition therapy,*
43 *in person or via telehealth, to prevent, manage or treat diseases or*

1 *medical conditions and promote wellness.*

2 *(w) "Registered dietitian" means a person who:*

3 *(1) Has completed applicable education, experience, examination*
4 *and recertification requirements approved by CDR;*

5 *(2) is credentialed by CDR as a registered dietitian or a registered*
6 *dietitian nutritionist; and*

7 *(3) is legally authorized to use the title registered dietitian or*
8 *registered dietitian nutritionist and the corresponding abbreviations*
9 *"RD" or "RDN."*

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

12 *(y) "Rule" means a regulation promulgated by the compact*
13 *commission that has the force of law.*

14 *(z) "Single state license" means a license issued by a member state*
15 *within the issuing state and does not include a compact privilege in any*
16 *other member state.*

17 *(aa) "State" means any state, commonwealth, district or territory of*
18 *the United States of America.*

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

21 **SECTION 3—STATE PARTICIPATION IN THE COMPACT**

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

23 *(1) License and regulate the practice of dietetics; and*

24 *(2) have a mechanism in place for receiving and investigating*
25 *complaints concerning licensees.*

26 *(b) A member state shall:*

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

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

32 *(3) implement or utilize procedures for considering the criminal*
33 *history record information of applicants for an initial compact privilege.*
34 *These procedures shall include the submission of fingerprints or other*
35 *biometric-based information by applicants for the purpose of obtaining*
36 *an applicant's criminal history record information from the federal*
37 *bureau of investigation and the agency responsible for retaining that*
38 *state's criminal records;*

39 *(A) a member state shall fully implement a criminal history record*
40 *information requirement, within a time frame established by rule, that*
41 *includes receiving the results of the federal bureau of investigation*
42 *record search and shall use those results in determining compact*
43 *privilege eligibility; and*

1 **(B) communication between a member state and the compact**
2 **commission or among member states regarding the verification of**
3 **eligibility for a compact privilege shall not include any information**
4 **received from the federal bureau of investigation relating to a federal**
5 **criminal history record information check performed by a member state;**

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

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

11 **(6) recognize a compact privilege granted to a licensee who meets**
12 **all of the requirements outlined in section 4 in accordance with the**
13 **terms of the compact and rules.**

14 **(c) Member states may set and collect a fee for granting a compact**
15 **privilege.**

16 **(d) Individuals not residing in a member state shall continue to be**
17 **able to apply for a member state's single state license as provided under**
18 **the laws of each member state. The single state license granted to these**
19 **individuals shall not be recognized as granting a compact privilege to**
20 **engage in the practice of dietetics in any other member state.**

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

23 **(f) At no point shall the compact commission have the power to**
24 **define the requirements for the issuance of a single state license to**
25 **practice dietetics. The member states shall retain sole jurisdiction over**
26 **the provision of these requirements.**

27 **SECTION 4—COMPACT PRIVILEGE**

28 **(a) To exercise the compact privilege under the terms and**
29 **provisions of the compact, the licensee shall:**

30 **(1) Satisfy one of the following:**

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

33 **(B) complete all of the following:**

34 **(i) An education program that is either:**

35 **(a) A master's degree or doctoral degree that is programmatically**
36 **accredited by:**

37 **(1) ACEND; or**

38 **(2) a dietetics accrediting agency recognized by the United States**
39 **department of education, which the compact commission may by rule**
40 **determine, and from a college or university accredited at the time of**
41 **graduation by the appropriate regional accrediting agency recognized by**
42 **the council on higher education accreditation and the United States**
43 **department of education; or**

1 ***(b) an academic degree from a college or university in a foreign***
2 ***country equivalent to the degree described in subclause (a) that is***
3 ***programmatically accredited by:***

4 ***(1) ACEND; or***

5 ***(2) a dietetics accrediting agency recognized by the United States***
6 ***department of education, which the compact commission may by rule***
7 ***determine;***

8 ***(ii) planned, documented and supervised practice experience in***
9 ***dietetics that is programmatically accredited by:***

10 ***(a) ACEND; or***

11 ***(b) a dietetics accrediting agency recognized by the United States***
12 ***department of education which the compact commission may by rule***
13 ***determine, that involves at least 1000 hours of practice experience under***
14 ***the supervision of a registered dietitian or a licensed dietitian; and***

15 ***(iii) successful completion of either:***

16 ***(a) The registration examination for dietitians administered by***
17 ***CDR; or***

18 ***(b) a national credentialing examination for dietitians approved by***
19 ***the compact commission by rule, such completion being not more than***
20 ***five years prior to the date of the licensee's application for initial***
21 ***licensure and accompanied by a period of continuous licensure***
22 ***thereafter, all of which may be further governed by the rules of the***
23 ***compact commission;***

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

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

27 ***(4) pay any applicable fees, including any state fee, for the compact***
28 ***privilege;***

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

31 ***(6) report to the compact commission any adverse action,***
32 ***encumbrance or restriction on a license taken by any nonmember state***
33 ***within 30 days from the date the action is taken.***

34 ***(b) The compact privilege shall be valid until the expiration date of***
35 ***the home state license. To maintain a compact privilege, renewal of the***
36 ***compact privilege shall be congruent with the renewal of the home state***
37 ***license as the compact commission may define by rule. The licensee***
38 ***shall comply with the requirements of subsection (a) to maintain the***
39 ***compact privilege in the remote state.***

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

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

3 **SECTION 6—ACTIVE MILITARY MEMBERS OR THEIR SPOUSES**

4 *An active military member, or their spouse, shall designate a home*
5 *state where the individual has a current license in good standing. The*
6 *individual may retain the home state designation during the period the*
7 *service member is on active duty.*

8 **SECTION 7—ADVERSE ACTIONS**

9 (a) *In addition to the other powers conferred by state law, a remote*
10 *state shall have the authority, in accordance with existing state due*
11 *process law, to:*

12 (1) *Take adverse action against a licensee's compact privilege*
13 *within that member state; and*

14 (2) *issue subpoenas for both hearings and investigations that*
15 *require the attendance and testimony of witnesses as well as the*
16 *production of evidence. Subpoenas issued by a licensing authority in a*
17 *member state for the attendance and testimony of witnesses or the*
18 *production of evidence from another member state shall be enforced in*
19 *the latter state by any court of competent jurisdiction, according to the*
20 *practice and procedure applicable to subpoenas issued in proceedings*
21 *pending before that court. The issuing authority shall pay any witness*
22 *fees, travel expenses, mileage and other fees required by the service*
23 *statutes of the state where the witnesses or evidence are located.*

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

26 (c) *For purposes of taking adverse action, the home state shall give*
27 *the same priority and effect to reported conduct received from a member*
28 *state as it would if the conduct had occurred within the home state. In so*
29 *doing, the home state shall apply its own state laws to determine*
30 *appropriate action.*

31 (d) *The home state shall complete any pending investigations of a*
32 *licensee who changes home states during the course of the*
33 *investigations. The home state shall also have authority to take*
34 *appropriate action and promptly report the conclusions of the*
35 *investigations to the administrator of the data system. The administrator*
36 *of the data system shall promptly notify the new home state of any*
37 *adverse actions.*

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

41 (f) *A member state may take adverse action based on the factual*
42 *findings of another remote state if the member state follows its own*
43 *procedures for taking the adverse action.*

1 ***(4) The compact commission may recommend removal or***
2 ***suspension of any delegate from office.***

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

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

8 ***(7) Delegates shall meet and vote by such means as set forth in the***
9 ***bylaws. The bylaws may provide for delegates to meet and vote in person***
10 ***or by telecommunication, video conference or other means of***
11 ***communication.***

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

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

17 ***(1) Establish the fiscal year of the compact commission;***

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

19 ***(3) establish and amend rules and bylaws;***

20 ***(4) maintain its financial records in accordance with the bylaws;***

21 ***(5) meet and take such actions as are consistent with the provisions***
22 ***of this compact, the compact commission's rules and the bylaws;***

23 ***(6) initiate and conclude legal proceedings or actions in the name***
24 ***of the compact commission, except that the standing of any licensing***
25 ***authority to sue or be sued under applicable law shall not be affected;***

26 ***(7) maintain and certify records and information provided to a***
27 ***member state as the authenticated business records of the compact***
28 ***commission and designate an agent to do so on the compact***
29 ***commission's behalf;***

30 ***(8) purchase and maintain insurance and bonds;***

31 ***(9) borrow, accept or contract for services of personnel, including,***
32 ***but not limited to, employees of a member state;***

33 ***(10) conduct an annual financial review;***

34 ***(11) hire employees, elect or appoint officers, fix compensation,***
35 ***define duties, grant such individuals appropriate authority to carry out***
36 ***the purposes of the compact and establish the compact commission's***
37 ***personnel policies and programs relating to conflicts of interest,***
38 ***qualifications of personnel and other related personnel matters;***

39 ***(12) assess and collect fees;***

40 ***(13) accept any and all appropriate donations, grants of money,***
41 ***other sources of revenue, equipment, supplies, materials, services and***
42 ***gifts, and receive, utilize and dispose of the same except that at all times***
43 ***the compact commission shall avoid any actual or appearance of***

1 *impropriety or conflict of interest;*

2 (14) *lease, purchase, retain, own, hold, improve or use any*
3 *property, real, personal or mixed or any undivided interest therein;*

4 (15) *sell, convey, mortgage, pledge, lease, exchange, abandon or*
5 *otherwise dispose of any property real, personal or mixed;*

6 (16) *establish a budget and make expenditures;*

7 (17) *borrow money;*

8 (18) *appoint committees, including standing committees, composed*
9 *of members, state regulators, state legislators or their representatives,*
10 *consumer representatives and such other interested persons as may be*
11 *designated in this compact or the bylaws;*

12 (19) *provide and receive information from, and cooperate with, law*
13 *enforcement agencies;*

14 (20) *establish and elect an executive committee, including a chair*
15 *and a vice chair;*

16 (21) *determine whether a state's adopted language is materially*
17 *different from the model compact language such that the state would not*
18 *qualify for participation in the compact; and*

19 (22) *perform such other functions as may be necessary or*
20 *appropriate to achieve the purposes of this compact.*

21 (d) *The executive committee.*

22 (1) *The executive committee shall have the power to act on behalf*
23 *of the compact commission according to the terms of this compact. The*
24 *powers, duties and responsibilities of the executive committee shall*
25 *include:*

26 (A) *Oversee the day-to-day activities of the administration of the*
27 *compact including enforcement and compliance with the provisions of*
28 *the compact and its rules and bylaws and other such duties as deemed*
29 *necessary;*

30 (B) *recommend to the compact commission changes to the rules or*
31 *bylaws, changes to this compact legislation, fees charged to compact*
32 *member states, fees charged to licensees and other fees;*

33 (C) *ensure compact administration services are appropriately*
34 *provided, including by contract;*

35 (D) *prepare and recommend the budget;*

36 (E) *maintain financial records on behalf of the compact*
37 *commission;*

38 (F) *monitor compact compliance of member states and provide*
39 *compliance reports to the compact commission;*

40 (G) *establish additional committees as necessary;*

41 (H) *exercise the powers and duties of the compact commission*
42 *during the interim between compact commission meetings, except for*
43 *adopting or amending rules, adopting or amending bylaws and*

1 *exercising any other powers and duties expressly reserved to the compact*
2 *commission by rule or bylaw; and*

3 *(1) other duties as provided in the rules or bylaws of the compact*
4 *commission.*

5 *(2) The executive committee shall be composed of nine members:*

6 *(A) The chair and vice chair of the compact commission shall be*
7 *voting members of the executive committee;*

8 *(B) five voting members from the current membership of the*
9 *compact commission, elected by the compact commission;*

10 *(C) one exofficio, nonvoting member from a recognized*
11 *professional association representing dietitians; and*

12 *(D) one exofficio, nonvoting member from a recognized national*
13 *credentialing organization for dietitians.*

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

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

17 *(A) Executive committee meetings shall be open to the public,*
18 *except that the executive committee may meet in a closed, nonpublic*
19 *meeting as provided in subsection (f)(2).*

20 *(B) The executive committee shall give 30 days' notice of its*
21 *meetings, posted on the website of the compact commission and as*
22 *determined to provide notice to persons with an interest in the business*
23 *of the compact commission.*

24 *(C) The executive committee may hold a special meeting in*
25 *accordance with subsection (f)(1)(B).*

26 *(e) The compact commission shall adopt and provide to the member*
27 *states an annual report.*

28 *(f) Meetings of the compact commission.*

29 *(1) All meetings shall be open to the public, except that the compact*
30 *commission may meet in a closed, nonpublic meeting as provided in*
31 *subsection (f)(2).*

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

36 *(B) The compact commission may hold a special meeting when it*
37 *shall meet to conduct emergency business by giving 24 hours' notice to*
38 *all member states on the compact commission's website and other means*
39 *as provided in the compact commission's rules. The compact*
40 *commission's legal counsel shall certify that the compact commission's*
41 *need to meet qualifies as an emergency.*

42 *(2) The compact commission or the executive committee or other*
43 *committees of the compact commission may convene in a closed,*

1 *nonpublic meeting for the compact commission or executive committee*
2 *or other committees of the compact commission to receive legal advice*
3 *or to discuss:*

4 (A) *Noncompliance of a member state with its obligations under the*
5 *compact;*

6 (B) *the employment, compensation, discipline or other matters,*
7 *practices or procedures related to specific employees;*

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

10 (D) *current, threatened or reasonably anticipated litigation;*

11 (E) *negotiation of contracts for the purchase, lease, or sale of*
12 *goods, services or real estate;*

13 (F) *accusing any person of a crime or formally censuring any*
14 *person;*

15 (G) *trade secrets or commercial or financial information that is*
16 *privileged or confidential;*

17 (H) *information of a personal nature where disclosure would*
18 *constitute a clearly unwarranted invasion of personal privacy;*

19 (I) *investigative records compiled for law enforcement purposes;*

20 (J) *information related to any investigative reports prepared by or*
21 *on behalf of or for use of the compact commission or other committee*
22 *charged with responsibility of investigation or determination of*
23 *compliance issues pursuant to the compact;*

24 (K) *matters specifically exempted from disclosure by federal or*
25 *member state law; or*

26 (L) *other matters as specified in the rules of the compact*
27 *commission.*

28 (3) *If a meeting, or portion of a meeting, is closed, the presiding*
29 *officer shall state that the meeting will be closed and reference each*
30 *relevant exempting provision, and such reference shall be recorded in*
31 *the minutes.*

32 (4) *The compact commission shall keep minutes that fully and*
33 *clearly describe all matters discussed in a meeting and provide a full and*
34 *accurate summary of actions taken, and the reasons therefore, including*
35 *a description of the views expressed. All documents considered in*
36 *connection with an action shall be identified in such minutes. All*
37 *minutes and documents of a closed meeting shall remain under seal,*
38 *subject to release only by a majority vote of the compact commission or*
39 *order of a court of competent jurisdiction.*

40 (g) *Financing of the compact commission.*

41 (1) *The compact commission shall pay, or provide for the payment*
42 *of, the reasonable expenses of its establishment, organization and*
43 *ongoing activities.*

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

3 (3) *The compact commission may levy on and collect an annual*
4 *assessment from each member state and impose fees on licensees of*
5 *member states to whom it grants a compact privilege to cover the cost of*
6 *the operations and activities of the compact commission and its staff that*
7 *shall, in a total amount, be sufficient to cover its annual budget as*
8 *approved each year for which revenue is not provided by other sources.*
9 *The aggregate annual assessment amount for member states shall be*
10 *allocated based upon a formula that the compact commission shall*
11 *promulgate by rule.*

12 (4) *The compact commission shall not incur obligations of any kind*
13 *prior to securing the funds adequate to meet the same, nor shall the*
14 *compact commission pledge the credit of any of the member states*
15 *except by and with the authority of the member state.*

16 (5) *The compact commission shall keep accurate accounts of all*
17 *receipts and disbursements. The receipts and disbursements of the*
18 *compact commission shall be subject to the financial review and*
19 *accounting procedures established under its bylaws. All receipts and*
20 *disbursements of funds handled by the compact commission shall be*
21 *subject to an annual financial review by a certified or licensed public*
22 *accountant, and the report of the financial review shall be included in*
23 *and become part of the annual report of the compact commission.*

24 (h) *Qualified immunity, defense and indemnification.*

25 (1) *The members, officers, executive director, employees and*
26 *representatives of the compact commission shall be immune from suit*
27 *and liability, both personally and in their official capacity, for any claim*
28 *for damage to or loss of property or personal injury or other civil*
29 *liability caused by or arising out of any actual or alleged act, error or*
30 *omission that occurred, or that the person against whom the claim is*
31 *made had a reasonable basis for believing occurred within the scope of*
32 *compact commission employment, duties or responsibilities, except that*
33 *nothing in this paragraph shall be construed to protect any such person*
34 *from suit or liability for any damage, loss, injury or liability caused by*
35 *the intentional or willful or wanton misconduct of that person. The*
36 *procurement of insurance of any type by the compact commission shall*
37 *not in any way compromise or limit the immunity granted hereunder.*

38 (2) *The compact commission shall defend any member, officer,*
39 *executive director, employee and representative of the compact*
40 *commission in any civil action seeking to impose liability arising out of*
41 *any actual or alleged act, error or omission that occurred within the*
42 *scope of compact commission employment, duties or responsibilities or*
43 *as determined by the compact commission that the person against whom*

1 *the claim is made had a reasonable basis for believing occurred within*
2 *the scope of compact commission employment, duties or responsibilities,*
3 *except that nothing herein shall be construed to prohibit that person*
4 *from retaining their own counsel at their own expense and that the*
5 *actual or alleged act, error or omission did not result from that person's*
6 *intentional or willful or wanton misconduct.*

7 (3) *The compact commission shall indemnify and hold harmless*
8 *any member, officer, executive director, employee and representative of*
9 *the compact commission for the amount of any settlement or judgment*
10 *obtained against that person arising out of any actual or alleged act,*
11 *error or omission that occurred within the scope of compact commission*
12 *employment, duties or responsibilities, or that such person had a*
13 *reasonable basis for believing occurred within the scope of compact*
14 *commission employment, duties or responsibilities, except that the actual*
15 *or alleged act, error or omission did not result from the intentional or*
16 *willful or wanton misconduct of that person.*

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

20 (5) *Nothing in this compact shall be interpreted to waive or*
21 *otherwise abrogate a member state's state action immunity or state*
22 *action affirmative defense with respect to antitrust claims under the*
23 *Sherman antitrust act of 1890, the Clayton act 15 U.S.C. §§ 12-27 or any*
24 *other state or federal antitrust or anticompetitive law or regulation.*

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

27 SECTION 9—DATA SYSTEMS

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

30 (b) *The compact commission shall assign each applicant for a*
31 *compact privilege a unique identifier, as determined by the rules of the*
32 *compact commission.*

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

37 (1) *Identifying information;*

38 (2) *licensure data;*

39 (3) *adverse actions against a license or compact privilege and*
40 *information related thereto;*

41 (4) *nonconfidential information related to alternative program*
42 *participation, the beginning and ending dates of such participation and*
43 *other information related to such participation not made confidential*

1 *under member state law;*

2 (5) *any denial of application for licensure and the reason for such*
3 *denial;*

4 (6) *the presence of current significant investigative information;*
5 *and*

6 (7) *other information that may facilitate the administration of this*
7 *compact or the protection of the public, as determined by the rules of the*
8 *compact commission.*

9 (d) *The records and information provided to a member state*
10 *pursuant to this compact or through the data system, when certified by*
11 *the compact commission or an agent thereof, shall constitute the*
12 *authenticated business records of the compact commission and shall be*
13 *entitled to any associated hearsay exception in any relevant judicial,*
14 *quasi-judicial or administrative proceedings in a member state.*

15 (e) *Current significant investigative information pertaining to a*
16 *licensee in any member state shall only be available to other member*
17 *states.*

18 (f) *Member states shall report any adverse action against a licensee*
19 *and to monitor the data system to determine whether any adverse action*
20 *has been taken against a licensee. Adverse action information pertaining*
21 *to a licensee in any member state shall be available to any other member*
22 *state.*

23 (g) *Member states contributing information to the data system may*
24 *designate information that shall not be shared with the public without*
25 *the express permission of the contributing state.*

26 (h) *Any information submitted to the data system that is*
27 *subsequently expunged pursuant to federal law or the laws of the*
28 *member state contributing the information shall be removed from the*
29 *data system.*

30 **SECTION 10—RULEMAKING**

31 (a) *The compact commission shall promulgate reasonable rules in*
32 *order to effectively and efficiently implement and administer the*
33 *purposes and provisions of the compact. A rule shall be invalid and have*
34 *no force or effect only if a court of competent jurisdiction holds that the*
35 *rule is invalid because the compact commission exercised its rulemaking*
36 *authority in a manner that is beyond the scope and purposes of the*
37 *compact, or the powers granted hereunder, or based upon another*
38 *applicable standard of review.*

39 (b) *The rules of the compact commission shall have the force of law*
40 *in each member state, except that where the rules conflict with the laws*
41 *or regulations of a member state that relate to the procedures, actions*
42 *and processes a licensed dietitian is permitted to undertake in that state*
43 *and the circumstances under which they may do so, as held by a court of*

1 *competent jurisdiction, the rules of the compact commission shall be*
2 *ineffective in that state to the extent of the conflict.*

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

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

12 *(e) Rules shall be adopted at a regular or special meeting of the*
13 *compact commission.*

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

17 *(g) Prior to adoption of a proposed rule by the compact commission*
18 *and at least 30 days in advance of the meeting at which the compact*
19 *commission will hold a public hearing on the proposed rule, the compact*
20 *commission shall provide a notice of proposed rulemaking:*

21 *(1) On the website of the compact commission or other publicly*
22 *accessible platform;*

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

25 *(3) in such other way as the compact commission may by rule*
26 *specify.*

27 *(h) The notice of proposed rulemaking shall include:*

28 *(1) The time, date and location of the public hearing at which the*
29 *compact commission will hear public comments on the proposed rule*
30 *and, if different, the time, date and location of the meeting where the*
31 *compact commission will consider and vote on the proposed rule;*

32 *(2) if the hearing is held via telecommunication, video conference*
33 *or other means of communication, the compact commission shall*
34 *include the mechanism for access to the hearing in the notice of*
35 *proposed rulemaking;*

36 *(3) the text of the proposed rule and the reason therefor;*

37 *(4) a request for comments on the proposed rule from any*
38 *interested person; and*

39 *(5) the manner in which interested persons may submit written*
40 *comments.*

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

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

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

8 (1) *The compact commission may adopt changes to the proposed*
9 *rule if the changes do not enlarge the original purpose of the proposed*
10 *rule.*

11 (2) *The compact commission shall provide an explanation of the*
12 *reasons for substantive changes made to the proposed rule as well as*
13 *reasons for substantive changes not made that were recommended by*
14 *commenters.*

15 (3) *The compact commission shall determine a reasonable effective*
16 *date for the rule. Except for an emergency as provided in subsection (l),*
17 *the effective date of the rule shall be not sooner than 30 days after*
18 *issuing the notice that it adopted or amended the rule.*

19 (l) *Upon determination that an emergency exists, the compact*
20 *commission may consider and adopt an emergency rule with 24 hours'*
21 *notice, with an opportunity to comment, except that the usual*
22 *rulemaking procedures provided in the compact and this section shall be*
23 *retroactively applied to the rule as soon as reasonably possible but not*
24 *later than 90 days after the effective date of the rule. For the purposes of*
25 *this provision, an emergency rule is one that shall be adopted*
26 *immediately in order to:*

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

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

29 (3) *meet a deadline for the promulgation of a rule that is*
30 *established by federal law or rule; or*

31 (4) *protect public health and safety.*

32 (m) *The compact commission or an authorized committee of the*
33 *compact commission may direct revision to a previously adopted rule for*
34 *purposes of correcting typographical errors, errors in format, errors in*
35 *consistency or grammatical errors. Public notice of any revision shall be*
36 *posted on the website of the compact commission. The revision shall be*
37 *subject to challenge by any person for a period of 30 days after posting.*
38 *The revision may be challenged only on grounds that the revision results*
39 *in a material change to a rule. A challenge shall be made in writing and*
40 *delivered to the compact commission prior to the end of the notice*
41 *period. If no challenge is made, the revision shall take effect without*
42 *further action. If the revision is challenged, the revision may not take*
43 *effect without the approval of the compact commission.*

1 *(n) No member state's rulemaking requirements shall apply under*
2 *this compact.*

3 **SECTION 11—OVERSIGHT, DISPUTE RESOLUTION AND**
4 **ENFORCEMENT**

5 *(a) Oversight.*

6 *(1) The executive and judicial branches of state government in each*
7 *member state shall enforce this compact and take all actions necessary*
8 *and appropriate to implement this compact.*

9 *(2) Except as otherwise provided in this compact, venue is proper*
10 *and judicial proceedings by or against the compact commission shall be*
11 *brought solely and exclusively in a court of competent jurisdiction where*
12 *the principal office of the compact commission is located. The compact*
13 *commission may waive venue and jurisdictional defenses to the extent it*
14 *adopts or consents to participate in alternative dispute resolution*
15 *proceedings. Nothing herein shall affect or limit the selection or*
16 *propriety of venue in any action against a licensee for professional*
17 *malpractice, misconduct or any such similar matter.*

18 *(3) The compact commission shall be entitled to receive service of*
19 *process in any proceeding regarding the enforcement or interpretation*
20 *of the compact and shall have standing to intervene in such a*
21 *proceeding for all purposes. Failure to provide the compact commission*
22 *service of process shall render a judgment or order void as to the*
23 *compact commission, this compact or promulgated rules.*

24 *(b) Default, technical assistance and termination.*

25 *(1) If the compact commission determines that a member state has*
26 *defaulted in the performance of its obligations or responsibilities under*
27 *this compact or the promulgated rules, the compact commission shall*
28 *provide written notice to the defaulting state. The notice of default shall*
29 *describe the default, the proposed means of curing the default and any*
30 *other action that the compact commission may take and shall offer*
31 *training and specific technical assistance regarding the default.*

32 *(2) The compact commission shall provide a copy of the notice of*
33 *default to the other member states.*

34 *(c) If a state in default fails to cure the default, the defaulting state*
35 *may be terminated from the compact upon an affirmative vote of a*
36 *majority of the delegates of the member states, and all rights, privileges*
37 *and benefits conferred on that state by this compact may be terminated*
38 *on the effective date of termination. A cure of the default does not relieve*
39 *the offending state of obligations or liabilities incurred during the period*
40 *of default.*

41 *(d) Termination of membership in the compact shall be imposed*
42 *only after all other means of securing compliance have been exhausted.*
43 *Notice of intent to suspend or terminate shall be given by the compact*

1 *commission to the governor, the majority and minority leaders of the*
2 *defaulting state's legislature, the defaulting state's licensing authority*
3 *and each of the member states' licensing authority.*

4 *(e) A state that has been terminated is responsible for all*
5 *assessments, obligations and liabilities incurred through the effective*
6 *date of termination, including obligations that extend beyond the*
7 *effective date of termination.*

8 *(f) Upon the termination of a state's membership from this*
9 *compact, that state shall immediately provide notice to all licensees*
10 *within that state of such termination. The terminated state shall*
11 *continue to recognize all compact privileges granted pursuant to this*
12 *compact for a minimum of six months after the date of said notice of*
13 *termination.*

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

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

23 *(i) Dispute resolution.*

24 *(1) Upon request by a member state, the compact commission shall*
25 *attempt to resolve disputes related to the compact that arise among*
26 *member states and among member and nonmember states.*

27 *(2) The compact commission shall promulgate a rule providing for*
28 *both mediation and binding dispute resolution for disputes as*
29 *appropriate.*

30 *(j) Enforcement.*

31 *(1) By supermajority vote, the compact commission may initiate*
32 *legal action against a member state in default in the United States*
33 *district court for the District of Columbia or the federal district where*
34 *the compact commission has its principal offices to enforce compliance*
35 *with the provisions of the compact and its promulgated rules. The relief*
36 *sought may include both injunctive relief and damages. In the event that*
37 *judicial enforcement is necessary, the prevailing party shall be awarded*
38 *all costs of such litigation, including reasonable attorney fees. The*
39 *remedies herein shall not be the exclusive remedies of the compact*
40 *commission. The compact commission may pursue any other remedies*
41 *available under federal or the defaulting member state's law.*

42 *(2) A member state may initiate legal action against the compact*
43 *commission in the United States district court for the District of*

1 *Columbia or the federal district where the compact commission has its*
2 *principal offices to enforce compliance with the provisions of the*
3 *compact and its promulgated rules. The relief sought may include both*
4 *injunctive relief and damages. In the event that judicial enforcement is*
5 *necessary, the prevailing party shall be awarded all costs of such*
6 *litigation, including reasonable attorney fees.*

7 (3) *No party other than a member state shall enforce this compact*
8 *against the compact commission.*

9 **SECTION 12—EFFECTIVE DATE, WITHDRAWAL AND**
10 **AMENDMENT**

11 (a) *The compact shall come into effect on the date that the compact*
12 *statute is enacted into law in the seventh member state.*

13 (1) *On or after the effective date of the compact, the compact*
14 *commission shall convene and review the enactment of each of the first*
15 *seven member states, "charter member states," to determine if the*
16 *statute enacted by each such charter member state is materially different*
17 *than the model compact statute.*

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

21 (B) *If any member state is later found to be in default, or is*
22 *terminated or withdraws from the compact, the compact commission*
23 *shall remain in existence and the compact shall remain in effect even if*
24 *the number of member states should be fewer than seven.*

25 (2) *Member states enacting the compact subsequent to the seven*
26 *initial charter member states shall be subject to the process set forth in*
27 *section 8(c)(21) to determine if their enactments are materially different*
28 *from the model compact statute and whether they qualify for*
29 *participation in the compact.*

30 (3) *All actions taken for the benefit of the compact commission or*
31 *in furtherance of the purposes of the administration of the compact*
32 *prior to the effective date of the compact or the compact commission*
33 *coming into existence shall be considered to be actions of the compact*
34 *commission unless specifically repudiated by the compact commission.*

35 (4) *Any state that joins the compact subsequent to the compact*
36 *commission's initial adoption of the rules and bylaws shall be subject to*
37 *the rules and bylaws as they exist on the date that the compact becomes*
38 *law in that state. Any rule that has been previously adopted by the*
39 *compact commission shall have the full force and effect of law on the*
40 *day the compact becomes law in that state.*

41 (b) *Any member state may withdraw from this compact by enacting*
42 *a statute repealing such compact.*

43 (1) *A member state's withdrawal shall not take effect until 180 days*

1 *after enactment of the repealing statute.*

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

6 *(3) Upon the enactment of a statute withdrawing from this compact,*
7 *a state shall immediately provide notice of such withdrawal to all*
8 *licensees within that state. Notwithstanding any subsequent statutory*
9 *enactment to the contrary, such withdrawing state shall continue to*
10 *recognize all compact privileges granted pursuant to this compact for a*
11 *minimum of 180 days after the date of such notice of withdrawal.*

12 *(c) Nothing contained in this compact shall be construed to*
13 *invalidate or prevent any licensure agreement or other cooperative*
14 *arrangement between a member state and a nonmember state that does*
15 *not conflict with the provisions of this compact.*

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

19 **SECTION 13—CONSTRUCTION AND SEVERABILITY**

20 *(a) This compact and the compact commission's rulemaking*
21 *authority shall be liberally construed so as to effectuate the purposes*
22 *and the implementation and administration of the compact. Provisions*
23 *of the compact expressly authorizing or requiring the promulgation of*
24 *rules shall not be construed to limit the compact commission's*
25 *rulemaking authority solely for those purposes.*

26 *(b) The provisions of this compact shall be severable and if any*
27 *phrase, clause, sentence or provision of this compact is held by a court*
28 *of competent jurisdiction to be contrary to the constitution of any*
29 *member state, a state seeking participation in the compact or of the*
30 *United States, or the applicability thereof to any government, agency,*
31 *person or circumstance is held to be unconstitutional by a court of*
32 *competent jurisdiction, the validity of the remainder of this compact and*
33 *the applicability thereof to any other government, agency, person or*
34 *circumstance shall not be affected thereby.*

35 *(c) Notwithstanding subsection (b), the compact commission may*
36 *deny a state's participation in the compact or, in accordance with the*
37 *requirements of section 11(b), terminate a member state's participation*
38 *in the compact if it determines that a constitutional requirement of a*
39 *member state is a material departure from the compact. If this compact*
40 *shall be held to be contrary to the constitution of any member state, the*
41 *compact shall remain in full force and effect as to the remaining*
42 *member states and in full force and effect as to the member state*
43 *affected as to all severable matters.*

