

HOUSE BILL No. 2070

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; relating to dietitians; enacting
2 the dietitian compact to provide interstate practice privileges.
3

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

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

7 SECTION 1—PURPOSE

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

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

29 SECTION 2—DEFINITIONS

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

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

1 members of the national guard and reserve.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 other member state.

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

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

6 SECTION 3—STATE PARTICIPATION IN THE COMPACT

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

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

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

11 (b) A member state shall:

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

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

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

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

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

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

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

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

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

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

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

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

12 SECTION 4—COMPACT PRIVILEGE

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

15 (1) Satisfy one of the following:

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

18 (B) complete all of the following:

19 (i) An education program that is either:

20 (a) A master's degree or doctoral degree that is programmatically
21 accredited by:

22 (1) ACEND; or

23 (2) a dietetics accrediting agency recognized by the United States
24 department of education, which the compact commission may by rule
25 determine, and from a college or university accredited at the time of
26 graduation by the appropriate regional accrediting agency recognized by
27 the council on higher education accreditation and the United States
28 department of education; or

29 (b) an academic degree from a college or university in a foreign
30 country equivalent to the degree described in subclause (a) that is
31 programmatically accredited by:

32 (1) ACEND; or

33 (2) a dietetics accrediting agency recognized by the United States
34 department of education, which the compact commission may by rule
35 determine;

36 (ii) planned, documented and supervised practice experience in
37 dietetics that is programmatically accredited by:

38 (a) ACEND; or

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

43 (iii) successful completion of either:

1 (a) The registration examination for dietitians administered by CDR;
 2 or

3 (b) a national credentialing examination for dietitians approved by the
 4 compact commission by rule, such completion being not more than five
 5 years prior to the date of the licensee's application for initial licensure and
 6 accompanied by a period of continuous licensure thereafter, all of which
 7 may be further governed by the rules of the compact commission;

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

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

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

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

15 (6) report to the compact commission any adverse action,
 16 encumbrance or restriction on a license taken by any nonmember state
 17 within 30 days from the date the action is taken. The compact privilege
 18 shall be valid until the expiration date of the home state license. To
 19 maintain a compact privilege, renewal of the compact privilege shall be
 20 congruent with the renewal of the home state license as the compact
 21 commission may define by rule. The licensee shall comply with the
 22 requirements of subsection (a) to maintain the compact privilege in the
 23 remote state.

24 (b) The compact privilege shall be valid until the expiration date of
 25 the home state license. To maintain a compact privilege, renewal of the
 26 compact privilege shall be congruent with the renewal of the home state
 27 license as the compact commission may define by rule. The licensee shall
 28 comply with the requirements of subsection (a) to maintain the compact
 29 privilege in the remote state.

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

34 (d) Notwithstanding anything to the contrary provided in this
 35 compact or state law, a licensee exercising a compact privilege shall not be
 36 required to complete continuing education requirements required by a
 37 remote state. A licensee exercising a compact privilege shall only be
 38 required to meet any continuing education requirements as required by the
 39 home state.

40 SECTION 5—OBTAINING A NEW HOME STATE LICENSE BASED
 41 ON A COMPACT PRIVILEGE

42
 43 (a) A licensee may hold a home state license that allows for a

1 compact privilege in other member states in only one member state at a
2 time.

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

5 (1) The licensee shall file an application for obtaining a new home
6 state license based on a compact privilege, pay all applicable fees and
7 notify the current and new home state in accordance with the rules of the
8 compact commission.

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

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

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

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

18 (3) The former home state shall convert the former home state license
19 into a compact privilege once the new home state has activated the new
20 home state license in accordance with applicable rules adopted by the
21 compact commission.

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

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

27 (c) If a licensee changes their state of residence by moving from a
28 member state to a nonmember state, or from a nonmember state to a
29 member state, the state criteria shall apply for issuance of a single state
30 license in the new state.

31 (d) Nothing in this compact shall interfere with a licensee's ability to
32 hold a single state license in multiple states, except that for the purposes of
33 this compact, a licensee shall have only one home state license.

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

36 SECTION 6—ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

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

41 SECTION 7—ADVERSE ACTIONS

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

1 law, to:

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

4 (2) issue subpoenas for both hearings and investigations that require
5 the attendance and testimony of witnesses as well as the production of
6 evidence. Subpoenas issued by a licensing authority in a member state for
7 the attendance and testimony of witnesses or the production of evidence
8 from another member state shall be enforced in the latter state by any court
9 of competent jurisdiction, according to the practice and procedure
10 applicable to subpoenas issued in proceedings pending before that court.
11 The issuing authority shall pay any witness fees, travel expenses, mileage
12 and other fees required by the service statutes of the state where the
13 witnesses or evidence are located.

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

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

21 (d) The home state shall complete any pending investigations of a
22 licensee who changes home states during the course of the investigations.
23 The home state shall also have authority to take appropriate action and
24 promptly report the conclusions of the investigations to the administrator
25 of the data system. The administrator of the data system shall promptly
26 notify the new home state of any adverse actions.

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

30 (f) A member state may take adverse action based on the factual
31 findings of another remote state if the member state follows its own
32 procedures for taking the adverse action.

33 (g) Joint investigations.

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

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

40 (h) If adverse action is taken by the home state against a licensee's
41 home state license resulting in an encumbrance on the home state license,
42 the licensee's compact privilege in all other member states shall be revoked
43 until all encumbrances have been removed from the home state license. All

1 home state disciplinary orders that impose adverse action against a
2 licensee shall include a statement that the licensee's compact privileges are
3 revoked in all member states during the pendency of the order.

4 (i) Once an encumbered license in the home state is restored to an
5 unencumbered license as certified by the home state's licensing authority,
6 the licensee shall meet the requirements of section 4(a) and follow the
7 administrative requirements to reapply to obtain a compact privilege in
8 any remote state.

9 (j) If a member state takes adverse action, such state shall promptly
10 notify the administrator of the data system. The administrator of the data
11 system shall promptly notify the other member states state of any adverse
12 actions.

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

16 SECTION 8—ESTABLISHMENT OF THE DIETITIAN LICENSURE
17 COMPACT COMMISSION
18

19 (a) The compact member states hereby create and establish a joint
20 governmental agency whose membership consists of all member states that
21 have enacted the compact known as the dietitian licensure compact
22 commission. The compact commission is an instrumentality of the
23 compact states acting jointly and not an instrumentality of any one state.
24 The compact commission shall come into existence on or after the
25 effective date of the compact as set forth in section 12.

26 (b) Membership, voting and meetings.

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

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

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

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

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

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

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

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

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

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

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

8 (3) establish and amend rules and bylaws;

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

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

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

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

19 (8) purchase and maintain insurance and bonds;

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

22 (10) conduct an annual financial review;

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

28 (12) assess and collect fees;

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

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

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

38 (16) establish a budget and make expenditures;

39 (17) borrow money;

40 (18) appoint committees, including standing committees, composed
41 of members, state regulators, state legislators or their representatives,
42 consumer representatives and such other interested persons as may be
43 designated in this compact or the bylaws;

1 (19) provide and receive information from, and cooperate with, law
2 enforcement agencies;

3 (20) establish and elect an executive committee, including a chair and
4 a vice chair;

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

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

10 (d) The executive committee.

11 (1) The executive committee shall have the power to act on behalf of
12 the compact commission according to the terms of this compact. The
13 powers, duties and responsibilities of the executive committee shall
14 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 and its rules and bylaws and other such duties as deemed
18 necessary;

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

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

24 (D) prepare and recommend the budget;

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

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

28 (G) establish additional committees as necessary;

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

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

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

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

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

41 (C) one exofficio, nonvoting member from a recognized professional
42 association representing dietitians; and

43 (D) one exofficio, nonvoting member from a recognized national

1 credentialing organization for dietitians.

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

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

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

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

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

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

16 (f) Meetings of the compact commission.

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

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

24 (B) The compact commission may hold a special meeting when it
25 shall meet to conduct emergency business by giving 24 hours' notice to all
26 member states on the compact commission's website and other means as
27 provided in the compact commission's rules. The compact commission's
28 legal counsel shall certify that the compact commission's need to meet
29 qualifies as an emergency.

30 (2) The compact commission or the executive committee or other
31 committees of the compact commission may convene in a closed,
32 nonpublic meeting for the compact commission or executive committee or
33 other committees of the compact commission to receive legal advice or to
34 discuss:

35 (A) Noncompliance of a member state with its obligations under the
36 compact;

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

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

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

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

- 1 (F) accusing any person of a crime or formally censuring any person;
- 2 (G) trade secrets or commercial or financial information that is
3 privileged or confidential;
- 4 (H) information of a personal nature where disclosure would
5 constitute a clearly unwarranted invasion of personal privacy;
- 6 (I) investigative records compiled for law enforcement purposes;
- 7 (J) information related to any investigative reports prepared by or on
8 behalf of or for use of the compact commission or other committee
9 charged with responsibility of investigation or determination of
10 compliance issues pursuant to the compact;
- 11 (K) matters specifically exempted from disclosure by federal or
12 member state law; or
- 13 (L) other matters as specified in the rules of the compact commission.
- 14 (3) If a meeting, or portion of a meeting, is closed, the presiding
15 officer shall state that the meeting will be closed and reference each
16 relevant exempting provision, and such reference shall be recorded in the
17 minutes.
- 18 (4) The compact commission shall keep minutes that fully and clearly
19 describe all matters discussed in a meeting and provide a full and accurate
20 summary of actions taken, and the reasons therefore, including a
21 description of the views expressed. All documents considered in
22 connection with an action shall be identified in such minutes. All minutes
23 and documents of a closed meeting shall remain under seal, subject to
24 release only by a majority vote of the compact commission or order of a
25 court of competent jurisdiction.
- 26 (g) Financing of the compact commission.
- 27 (1) The compact commission shall pay, or provide for the payment of,
28 the reasonable expenses of its establishment, organization and ongoing
29 activities.
- 30 (2) The compact commission may accept any and all appropriate
31 revenue sources as provided in subsection (c)(13).
- 32 (3) The compact commission may levy on and collect an annual
33 assessment from each member state and impose fees on licensees of
34 member states to whom it grants a compact privilege to cover the cost of
35 the operations and activities of the compact commission and its staff that
36 shall, in a total amount, be sufficient to cover its annual budget as
37 approved each year for which revenue is not provided by other sources.
38 The aggregate annual assessment amount for member states shall be
39 allocated based upon a formula that the compact commission shall
40 promulgate by rule.
- 41 (4) The compact commission shall not incur obligations of any kind
42 prior to securing the funds adequate to meet the same, nor shall the
43 compact commission pledge the credit of any of the member states except

1 by and with the authority of the member state.

2 (5) The compact commission shall keep accurate accounts of all
3 receipts and disbursements. The receipts and disbursements of the compact
4 commission shall be subject to the financial review and accounting
5 procedures established under its bylaws. All receipts and disbursements of
6 funds handled by the compact commission shall be subject to an annual
7 financial review by a certified or licensed public accountant, and the report
8 of the financial review shall be included in and become part of the annual
9 report of the compact commission.

10 (h) Qualified immunity, defense and indemnification.

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

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

36 (3) The compact commission shall indemnify and hold harmless any
37 member, officer, executive director, employee and representative of the
38 compact commission for the amount of any settlement or judgment
39 obtained against that person arising out of any actual or alleged act, error
40 or omission that occurred within the scope of compact commission
41 employment, duties or responsibilities, or that such person had a
42 reasonable basis for believing occurred within the scope of compact
43 commission employment, duties or responsibilities, except that the actual

1 or alleged act, error or omission did not result from the intentional or
2 willful or wanton misconduct of that person.

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

6 (5) Nothing in this compact shall be interpreted to waive or otherwise
7 abrogate a member state's state action immunity or state action affirmative
8 defense with respect to antitrust claims under the Sherman antitrust act of
9 1890, the Clayton act 15 U.S.C. §§ 12-27 or any other state or federal
10 antitrust or anticompetitive law or regulation.

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

13 SECTION 9—DATA SYSTEMS

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

16 (b) The compact commission shall assign each applicant for a
17 compact privilege a unique identifier, as determined by the rules of the
18 compact commission.

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

23 (1) Identifying information;

24 (2) licensure data;

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

27 (4) nonconfidential information related to alternative program
28 participation, the beginning and ending dates of such participation and
29 other information related to such participation not made confidential under
30 member state law;

31 (5) any denial of application for licensure and the reason for such
32 denial;

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

34 (7) other information that may facilitate the administration of this
35 compact or the protection of the public, as determined by the rules of the
36 compact commission.

37 (d) The records and information provided to a member state pursuant
38 to this compact or through the data system, when certified by the compact
39 commission or an agent thereof, shall constitute the authenticated business
40 records of the compact commission and shall be entitled to any associated
41 hearsay exception in any relevant judicial, quasi-judicial or administrative
42 proceedings in a member state.

43 (e) Current significant investigative information pertaining to a

1 licensee in any member state shall only be available to other member
2 states.

3 (f) Member states shall report any adverse action against a licensee
4 and to monitor the data system to determine whether any adverse action
5 has been taken against a licensee. Adverse action information pertaining to
6 a licensee in any member state shall be available to any other member
7 state.

8 (g) Member states contributing information to the data system may
9 designate information that shall not be shared with the public without the
10 express permission of the contributing state.

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

14 SECTION 10—RULEMAKING

15 (a) The compact commission shall promulgate reasonable rules in
16 order to effectively and efficiently implement and administer the purposes
17 and provisions of the compact. A rule shall be invalid and have no force or
18 effect only if a court of competent jurisdiction holds that the rule is invalid
19 because the compact commission exercised its rulemaking authority in a
20 manner that is beyond the scope and purposes of the compact, or the
21 powers granted hereunder, or based upon another applicable standard of
22 review.

23 (b) The rules of the compact commission shall have the force of law
24 in each member state, except that where the rules conflict with the laws or
25 regulations of a member state that relate to the procedures, actions and
26 processes a licensed dietitian is permitted to undertake in that state and the
27 circumstances under which they may do so, as held by a court of
28 competent jurisdiction, the rules of the compact commission shall be
29 ineffective in that state to the extent of the conflict.

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

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

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

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

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

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

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

9 (3) in such other way as the compact commission may by rule
10 specify.

11 (h) The notice of proposed rulemaking shall include:

12 (1) The time, date and location of the public hearing at which the
13 compact commission will hear public comments on the proposed rule and,
14 if different, the time, date and location of the meeting where the compact
15 commission will consider and vote on the proposed rule;

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

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

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

22 (5) the manner in which interested persons may submit written
23 comments.

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

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

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

33 (1) The compact commission may adopt changes to the proposed rule
34 if the changes do not enlarge the original purpose of the proposed rule.

35 (2) The compact commission shall provide an explanation of the
36 reasons for substantive changes made to the proposed rule as well as
37 reasons for substantive changes not made that were recommended by
38 commenters.

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

43 (l) Upon determination that an emergency exists, the compact

1 commission may consider and adopt an emergency rule with 24 hours'
2 notice, with an opportunity to comment, except that the usual rulemaking
3 procedures provided in the compact and this section shall be retroactively
4 applied to the rule as soon as reasonably possible but not later than 90 days
5 after the effective date of the rule. For the purposes of this provision, an
6 emergency rule is one that shall be adopted immediately in order to:

- 7 (1) Meet an imminent threat to public health, safety or welfare;
- 8 (2) prevent a loss of compact commission or member state funds;
- 9 (3) meet a deadline for the promulgation of a rule that is established
10 by federal law or rule; or
- 11 (4) protect public health and safety.

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

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

26 SECTION 11—OVERSIGHT, DISPUTE RESOLUTION AND 27 ENFORCEMENT

28 (a) Oversight.

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

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

41 (3) The compact commission shall be entitled to receive service of
42 process in any proceeding regarding the enforcement or interpretation of
43 the compact and shall have standing to intervene in such a proceeding for

1 all purposes. Failure to provide the compact commission service of process
2 shall render a judgment or order void as to the compact commission, this
3 compact or promulgated rules.

4 (b) Default, technical assistance and termination.

5 (1) If the compact commission determines that a member state has
6 defaulted in the performance of its obligations or responsibilities under
7 this compact or the promulgated rules, the compact commission shall
8 provide written notice to the defaulting state. The notice of default shall
9 describe the default, the proposed means of curing the default and any
10 other action that the compact commission may take and shall offer training
11 and specific technical assistance regarding the default.

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

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

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

27 (e) A state that has been terminated is responsible for all assessments,
28 obligations and liabilities incurred through the effective date of
29 termination, including obligations that extend beyond the effective date of
30 termination.

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

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

40 (h) The defaulting state may appeal the action of the compact
41 commission by petitioning the United States district court for the District
42 of Columbia or the federal district where the compact commission has its
43 principal offices. The prevailing party shall be awarded all costs of such

1 litigation, including reasonable attorney fees.

2 (i) Dispute resolution.

3 (1) Upon request by a member state, the compact commission shall
4 attempt to resolve disputes related to the compact that arise among
5 member states and among member and nonmember states.

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

8 (j) Enforcement.

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

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

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

30 SECTION 12—EFFECTIVE DATE, WITHDRAWAL AND
31 AMENDMENT

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

34 (1) On or after the effective date of the compact, the compact
35 commission shall convene and review the enactment of each of the first
36 seven member states, "charter member states," to determine if the statute
37 enacted by each such charter member state is materially different than the
38 model compact statute.

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

42 (B) If any member state is later found to be in default, or is
43 terminated or withdraws from the compact, the compact commission shall

1 remain in existence and the compact shall remain in effect even if the
2 number of member states should be fewer than seven.

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

8 (3) All actions taken for the benefit of the compact commission or in
9 furtherance of the purposes of the administration of the compact prior to
10 the effective date of the compact or the compact commission coming into
11 existence shall be considered to be actions of the compact commission
12 unless specifically repudiated by the compact commission.

13 (4) Any state that joins the compact subsequent to the compact
14 commission's initial adoption of the rules and bylaws shall be subject to
15 the rules and bylaws as they exist on the date that the compact becomes
16 law in that state. Any rule that has been previously adopted by the compact
17 commission shall have the full force and effect of law on the day the
18 compact becomes law in that state.

19 (b) Any member state may withdraw from this compact by enacting a
20 statute repealing such compact.

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

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

27 (3) Upon the enactment of a statute withdrawing from this compact, a
28 state shall immediately provide notice of such withdrawal to all licensees
29 within that state. Notwithstanding any subsequent statutory enactment to
30 the contrary, such withdrawing state shall continue to recognize all
31 compact privileges granted pursuant to this compact for a minimum of 180
32 days after the date of such notice of withdrawal.

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

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

40 SECTION 13—CONSTRUCTION AND SEVERABILITY

41 (a) This compact and the compact commission's rulemaking authority
42 shall be liberally construed so as to effectuate the purposes and the
43 implementation and administration of the compact. Provisions of the

1 compact expressly authorizing or requiring the promulgation of rules shall
2 not be construed to limit the compact commission's rulemaking authority
3 solely for those purposes.

4 (b) The provisions of this compact shall be severable and if any
5 phrase, clause, sentence or provision of this compact is held by a court of
6 competent jurisdiction to be contrary to the constitution of any member
7 state, a state seeking participation in the compact or of the United States,
8 or the applicability thereof to any government, agency, person or
9 circumstance is held to be unconstitutional by a court of competent
10 jurisdiction, the validity of the remainder of this compact and the
11 applicability thereof to any other government, agency, person or
12 circumstance shall not be affected thereby.

13 (c) Notwithstanding subsection (b), the compact commission may
14 deny a state's participation in the compact or, in accordance with the
15 requirements of section 11(b), terminate a member state's participation in
16 the compact if it determines that a constitutional requirement of a member
17 state is a material departure from the compact. If this compact shall be
18 held to be contrary to the constitution of any member state, the compact
19 shall remain in full force and effect as to the remaining member states and
20 in full force and effect as to the member state affected as to all severable
21 matters.

22 SECTION 14—CONSISTENT EFFECT AND CONFLICT WITH
23 OTHER STATE LAWS

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

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

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

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