

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 132

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO DIETICIANS; AMENDING CHAPTER 35, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3508A, IDAHO CODE, TO PROVIDE FOR THE DIETITIAN LICENSURE COMPACT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 35, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3508A, Idaho Code, and to read as follows:

54-3508A. DIETICIAN LICENSURE COMPACT. The interstate dietitian licensure compact is enacted and entered into law with all other jurisdictions joining in the compact in the form substantially as follows:

DIETICIAN LICENSURE COMPACT

SECTION 1
PURPOSE

The purpose of this compact is to facilitate interstate practice of dietetics with the goal of improving public access to dietetics services. This compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure while also providing for licensure portability through a compact privilege granted to qualifying professionals.

This compact is designed to achieve the following objectives:

- A. Increase public access to dietetics services;
- B. Provide opportunities for interstate practice by licensed dietitians who meet uniform requirements;
- C. Eliminate the necessity for licenses in multiple states;
- D. Reduce administrative burden on member states and licensees;
- E. Enhance the states' ability to protect the public's health and safety;
- F. Encourage the cooperation of member states in regulating multistate practice of licensed dietitians;
- G. Support relocating active military members and their spouses;
- H. Enhance the exchange of licensure, investigative, and disciplinary information among member states; and
- I. Vest all member states with the authority to hold a licensed dietitian accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered.

SECTION 2

DEFINITIONS

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

A. "ACEND" means the accreditation council for education in nutrition and dietetics or its successor organization.

B. "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.

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

D. "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a licensing authority.

E. "CDR" means the commission on dietetic registration or its successor organization.

F. "Charter member state" means any member state that enacted this compact by law before the effective date specified in section 12 of this compact.

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

H. "Compact privilege" means a legal authorization, which is equivalent to a license, permitting the practice of dietetics in a remote state.

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

J. "Current significant investigative information" means:

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

2. Investigative information that indicates that the subject licensee represents an immediate threat to public health and safety regardless of whether the subject licensee has been notified and had an opportunity to respond.

K. "Data system" means a repository of information about licensees, including but not limited to continuing education, examination, licensure, investigative, compact privilege, and adverse action information.

L. "Encumbered license" means a license in which an adverse action restricts a licensee's ability to practice dietetics.

1 M. "Encumbrance" means a revocation or suspension of, or any limitation
2 on, a licensee's full and unrestricted practice of dietetics by a licensing
3 authority.

4 N. "Executive committee" means a group of delegates elected or ap-
5 pointed to act on behalf of, and within the powers granted to them by, this
6 compact and the compact commission.

7 O. "Home state" means the member state that is the licensee's primary
8 state of residence or that has been designated pursuant to section 6 of this
9 compact.

10 P. "Investigative information" means information, records, and docu-
11 ments received or generated by a licensing authority pursuant to an investi-
12 gation.

13 Q. "Jurisprudence requirement" means an assessment of an individual's
14 knowledge of the state laws and regulations governing the practice of di-
15 etetics in such state.

16 R. "License" means an authorization from a member state to either:

17 1. Engage in the practice of dietetics, including medical nutrition
18 therapy; or

19 2. Use the title "dietitian," "licensed dietitian," "licensed dieti-
20 tian nutritionist," or "certified dietitian" or another title describ-
21 ing a substantially similar practitioner as the compact commission may
22 further define by rule.

23 S. "Licensee" or "licensed dietitian" means an individual who cur-
24 rently holds a license and who meets all of the requirements outlined in
25 section 4 of this compact.

26 T. "Licensing authority" means the board or agency of a state, or equiv-
27 alent, that is responsible for the licensing and regulation of the practice
28 of dietetics.

29 U. "Member state" means a state that has enacted the compact.

30 V. "Practice of dietetics" means the synthesis and application of di-
31 etetics as defined by state law and regulations, primarily for the provision
32 of nutrition care services, including medical nutrition therapy, in person
33 or via telehealth, to prevent, manage, or treat diseases or medical condi-
34 tions and promote wellness.

35 W. "Registered dietitian" means a person who:

36 1. Has completed applicable education, experience, examination, and
37 recertification requirements approved by CDR;

38 2. Is credentialed by CDR as a registered dietitian or a registered di-
39 etitian nutritionist; and

40 3. Is legally authorized to use the title "registered dietitian" or
41 "registered dietitian nutritionist" and the corresponding abbrevia-
42 tions "RD" or "RDN."

43 X. "Remote state" means a member state other than the home state, where
44 a licensee is exercising or seeking to exercise a compact privilege.

45 Y. "Rule" means a regulation promulgated by the compact commission that
46 has the force of law.

47 Z. "Single state license" means a license issued by a member state
48 within the issuing state and does not include a compact privilege in any
49 other member state.

1 AA. "State" means any state, commonwealth, district, or territory of
2 the United States of America.

3 BB. "Unencumbered license" means a license that authorizes a licensee
4 to engage in the full and unrestricted practice of dietetics.

5 SECTION 3
6 STATE PARTICIPATION IN THE COMPACT

7 A. To participate in the compact, a state must currently:

- 8 1. License and regulate the practice of dietetics; and
9 2. Have a mechanism in place for receiving and investigating complaints
10 about licensees.

11 B. A member state shall:

- 12 1. Participate fully in the commission's data system, including using
13 the commission's unique identifier as defined by rule;
14 2. Notify the compact commission, in compliance with the terms of the
15 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 his-
18 tory 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 obtain-
21 ing an applicant's criminal history record information from the federal
22 bureau of investigation and the agency responsible for retaining that
23 state's criminal records;

24 a. A member state must fully implement a criminal history record
25 information requirement, within a time frame established by rule,
26 that includes receiving the results of the federal bureau of in-
27 vestigation record search and shall use those results in determin-
28 ing compact privilege eligibility.

29 b. Communication between a member state and the compact commis-
30 sion or among member states regarding the verification of eligi-
31 bility for a compact privilege shall not include any information
32 received from the federal bureau of investigation relating to a
33 federal criminal history record information check performed by a
34 member state.

35 4. Comply with and enforce the rules of the compact commission;

36 5. Require an applicant for a compact privilege to obtain or retain a
37 license in the licensee's home state and meet the home state's qualifi-
38 cations for licensure or renewal of licensure, as well as all other ap-
39 plicable state laws; and

40 6. Recognize a compact privilege granted to a licensee who meets all
41 of the requirements outlined in section 4 of this compact in accordance
42 with the terms of the compact and rules.

43 C. Member states may set and collect a fee for granting a compact privi-
44 lege.

45 D. Individuals not residing in a member state shall continue to be able
46 to apply for a member state's single state license as provided under the laws
47 of each member state. However, the single state license granted to these in-

1 individuals shall not be recognized as granting a compact privilege to engage
2 in the practice of dietetics in any other member state.

3 E. Nothing in this compact shall affect the requirements established by
4 a member state for the issuance of a single state license.

5 F. At no point shall the compact commission have the power to define the
6 requirements for the issuance of a single state license to practice dietet-
7 ics. The member states shall retain sole jurisdiction over the provision of
8 these requirements.

9 SECTION 4
10 COMPACT PRIVILEGE

11 A. To exercise the privilege to practice under the terms and provisions
12 of the compact, the licensee shall:

13 1. Satisfy one (1) of the following:

14 a. Hold a valid current registration that gives the applicant the
15 right to use the term "registered dietitian"; or

16 b. Complete all of the following:

17 i. An education program that is either:

18 (a) A master's degree or doctoral degree that is pro-
19 grammatically accredited by (i) ACEND; or (ii) a di-
20 etetics accrediting agency recognized by the United
21 States department of education, which the compact com-
22 mission may by rule determine, and from a college or
23 university accredited at the time of graduation by the
24 appropriate regional accrediting agency recognized by
25 the council on higher education accreditation and the
26 United States department of education; or

27 (b) An academic degree from a college or university in
28 a foreign country equivalent to the degree described
29 in subparagraph b.i.(a) of this paragraph that is
30 programmatically accredited by ACEND or a dietetics
31 accrediting agency recognized by the United States de-
32 partment of education, which the compact commission
33 may by rule determine;

34 ii. A planned, documented, supervised practice experience
35 in dietetics that is programmatically accredited by (i)
36 ACEND; or (ii) a dietetics accrediting agency recognized by
37 the United States department of education, which the compact
38 commission may by rule determine and which involves at least
39 one thousand (1,000) hours of practice experience under the
40 supervision of a registered dietitian or a licensed dieti-
41 tian; and

42 iii. Either: (i) the registration examination for dieti-
43 tians administered by CDR; or (ii) a national credentialing
44 examination for dietitians approved by the compact commis-
45 sion by rule. Such completion may be no more than five (5)
46 years prior to the date of the licensee's application for
47 initial licensure and accompanied by a period of continuous

1 home state license in accordance with applicable rules adopted by the
2 compact commission.

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

6 5. The licensee shall pay all applicable fees to the new home state in
7 order to be issued a new home state license.

8 C. If a licensee changes state of residence by moving from a member
9 state to a non-member state, or from a non-member state to a member state, the
10 state criteria shall apply for issuance of a single state license in the new
11 state.

12 D. Nothing in this compact shall interfere with a licensee's ability to
13 hold a single state license in multiple states; however, for the purposes of
14 this compact, a licensee shall have only one (1) home state license.

15 E. Nothing in this compact shall affect the requirements established by
16 a member state for the issuance of a single state license.

17 SECTION 6

18 ACTIVE DUTY MILITARY MEMBERS OR THEIR SPOUSES

19 An active military member, or the member's spouse, shall designate a
20 home state where the individual has a current license in good standing. The
21 individual may retain the home state designation during the period the ser-
22 vice member is on active duty.

23 SECTION 7

24 ADVERSE ACTIONS

25 A. In addition to the other powers conferred by state law, a remote
26 state shall have the authority, in accordance with existing state due
27 process law, to:

28 1. Take adverse action against a licensee's compact privilege within
29 that member state; and

30 2. Issue subpoenas for both hearings and investigations that require
31 the attendance and testimony of witnesses as well as the production of
32 evidence. Subpoenas issued by a licensing authority in a member state
33 for the attendance and testimony of witnesses or the production of ev-
34 idence from another member state shall be enforced in the latter state
35 by any court of competent jurisdiction, according to the practice and
36 procedure applicable to subpoenas issued in proceedings pending before
37 that court. The issuing authority shall pay any witness fees, travel
38 expenses, mileage, and other fees required by the service statutes of
39 the state in which the witnesses or evidence are located.

40 B. Only the home state shall have the power to take adverse action
41 against a licensee's home state license.

42 C. For purposes of taking adverse action, the home state shall give the
43 same priority and effect to reported conduct received from a member state as
44 it would if the conduct had occurred within the home state. In so doing, the
45 home state shall apply its own state laws to determine appropriate action.

1 D. The home state shall complete any pending investigations of a li-
2 censee who changes home states during the course of the investigations. The
3 home state shall also have authority to take appropriate actions and shall
4 promptly report the conclusions of the investigations to the administrator
5 of the data system. The administrator of the data system shall promptly no-
6 tify the new home state of any adverse actions.

7 E. A member state, if otherwise permitted by state law, may recover from
8 the affected licensee the costs of investigations and dispositions of cases
9 resulting from any adverse action taken against that licensee.

10 F. A member state may take adverse action based on the factual findings
11 of another remote state, provided that the member state follows its own pro-
12 cedures for taking the adverse action.

13 G. Joint investigations:

14 1. In addition to the authority granted to a member state by its re-
15 spective state law, any member state may participate with other member
16 states in joint investigations of licensees.

17 2. Member states shall share any investigative, litigation, or compli-
18 ance materials in furtherance of any joint investigation initiated un-
19 der the compact.

20 H. If adverse action is taken by the home state against a licensee's
21 home state license resulting in an encumbrance on the home state license,
22 the licensee's compact privilege in all other member states shall be revoked
23 until all encumbrances have been removed from the home state license. All
24 home state disciplinary orders that impose adverse action against a licensee
25 shall include a statement that the licensee's compact privileges are revoked
26 in all member states during the pendency of the order.

27 I. Once an encumbered license in the home state is restored to an unen-
28 cumbered license, as certified by the home state's licensing authority, the
29 licensee must meet the requirements of section 4A. of this compact and follow
30 the administrative requirements to reapply to obtain a compact privilege in
31 any remote state.

32 J. If a member state takes adverse action, it shall promptly notify the
33 administrator of the data system. The administrator of the data system shall
34 promptly notify the other member states of any adverse actions.

35 K. Nothing in this compact shall override a member state's decision
36 that participation in an alternative program may be used in lieu of adverse
37 action.

38 SECTION 8

39 ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION

40 A. The compact member states hereby create and establish a joint gov-
41 ernment agency whose membership consists of all member states that have
42 enacted the compact known as the dietitian licensure compact commission.
43 The compact commission is an instrumentality of the compact states acting
44 jointly and not an instrumentality of any one (1) state. The compact commis-
45 sion shall come into existence on or after the effective date of the compact
46 as set forth in section 12 of this compact.

47 B. Membership, voting, and meetings:

- 1 1. Each member state shall have and be limited to one (1) delegate se-
2 lected by that member state's licensing authority.
- 3 2. The delegate shall be the primary administrator of the licensing au-
4 thority or the administrator's designee.
- 5 3. The compact commission shall by rule or bylaw establish a term of of-
6 fice for delegates and may by rule or bylaw establish term limits.
- 7 4. The compact commission may recommend removal or suspension of any
8 delegate from office.
- 9 5. A member state's licensing authority shall fill any vacancy of its
10 delegate occurring on the compact commission within sixty (60) days of
11 the vacancy.
- 12 6. Each delegate shall be entitled to one (1) vote on all matters before
13 the compact commission requiring a vote by the delegates.
- 14 7. Delegates shall meet and vote by such means as set forth in the by-
15 laws. The bylaws may provide for delegates to meet and vote in person
16 or by telecommunication, video conference, or other means of communica-
17 tion.
- 18 8. The compact commission shall meet at least once during each calendar
19 year. Additional meetings may be held as set forth in the bylaws. The
20 compact commission may meet in person or by telecommunication, video
21 conference, or other means of communication.
- 22 C. The compact commission shall have the following powers:
 - 23 1. Establish the fiscal year of the commission;
 - 24 2. Establish code of conduct and conflict of interest policies;
 - 25 3. Establish and amend rules and bylaws;
 - 26 4. Maintain its financial records in accordance with the bylaws;
 - 27 5. Meet and take such actions as are consistent with the provisions of
28 this compact, the compact commission's rules, and the bylaws;
 - 29 6. Initiate and conclude legal proceedings or actions in the name of the
30 compact commission, provided that the standing of any licensing author-
31 ity to sue or be sued under applicable law shall not be affected;
 - 32 7. Maintain and certify records and information provided to a member
33 state as the authenticated business records of the compact commission
34 and designate an agent to do so on the compact commission's behalf;
 - 35 8. Purchase and maintain insurance and bonds;
 - 36 9. Borrow, accept, or contract for services of personnel, including but
37 not limited to employees of a member state;
 - 38 10. Conduct an annual financial review;
 - 39 11. Hire employees, elect or appoint officers, fix compensation, define
40 duties, grant such individuals appropriate authority to carry out the
41 purposes of the compact, and establish the compact commission's person-
42 nel policies and programs relating to conflicts of interest, qualifica-
43 tions of personnel, and other related personnel matters;
 - 44 12. Assess and collect fees;
 - 45 13. Accept any and all appropriate donations, grants of money, other
46 sources of revenue, equipment, supplies, materials, services, and
47 gifts, and receive, utilize, and dispose of the same; provided that at
48 all times the compact commission shall avoid any actual or appearance of
49 impropriety or conflict of interest;

- 1 14. Lease, purchase, retain, own, hold, improve, or use any property,
2 real, personal, or mixed, or any undivided interest therein;
 - 3 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or other-
4 wise dispose of any property real, personal, or mixed;
 - 5 16. Establish a budget and make expenditures;
 - 6 17. Borrow money;
 - 7 18. Appoint committees, including standing committees, composed of
8 members, state regulators, state legislators or their representatives,
9 and consumer representatives, and such other interested persons as may
10 be designated in this compact or the bylaws;
 - 11 19. Provide and receive information from, and cooperate with, law en-
12 forcement agencies;
 - 13 20. Establish and elect an executive committee, including a chair and a
14 vice chair;
 - 15 21. Determine whether a state's adopted language is materially differ-
16 ent from the model compact language such that the state would not qual-
17 ify for participation in the compact; and
 - 18 22. Perform such other functions as may be necessary or appropriate to
19 achieve the purposes of this compact.
- 20 D. The executive committee:
- 21 1. The executive committee shall have the power to act on behalf of the
22 compact commission according to the terms of this compact. The powers,
23 duties, and responsibilities of the executive committee shall include:
 - 24 a. Oversee the day-to-day activities of the administration of the
25 compact, including enforcement and compliance with the provisions
26 of the compact, its rules and bylaws, and other such duties as
27 deemed necessary;
 - 28 b. Recommend to the compact commission changes to the rules or by-
29 laws, changes to this compact legislation, fees charged to compact
30 member states, fees charged to licensees, and other fees;
 - 31 c. Ensure compact administration services are appropriately pro-
32 vided, including by contract;
 - 33 d. Prepare and recommend the budget;
 - 34 e. Maintain financial records on behalf of the compact commis-
35 sion;
 - 36 f. Monitor compact compliance of member states and provide com-
37 pliance reports to the compact commission;
 - 38 g. Establish additional committees as necessary;
 - 39 h. Exercise the powers and duties of the compact commission dur-
40 ing the interim between compact commission meetings, except for
41 adopting or amending rules, adopting or amending bylaws, and exer-
42 cising any other powers and duties expressly reserved to the com-
43 pact commission by rule or bylaw; and
 - 44 i. Other duties as provided in the rules or bylaws of the compact
45 commission.
 - 46 2. The executive committee shall be composed of nine (9) members:
 - 47 a. The chair and vice chair of the compact commission shall be vot-
48 ing members of the executive committee;
 - 49 b. Five (5) voting members from the current membership of the com-
50 pact commission, elected by the compact commission;

- 1 c. One (1) ex-officio, nonvoting member from a recognized profes-
2 sional association representing dietitians; and
3 d. One (1) ex-officio, nonvoting member from a recognized na-
4 tional credentialing organization for dietitians.
- 5 3. The compact commission may remove any member of the executive com-
6 mittee as provided in the compact commission's bylaws.
- 7 4. The executive committee shall meet at least annually.
- 8 a. Executive committee meetings shall be open to the public, ex-
9 cept that the executive committee may meet in a closed, non-public
10 meeting as provided in subsection F.2. of this section.
- 11 b. The executive committee shall give thirty (30) days' notice of
12 its meetings, posted on the website of the compact commission and
13 as determined to provide notice to persons with an interest in the
14 business of the compact commission.
- 15 c. The executive committee may hold a special meeting in accor-
16 dance with subsection F.1.b. of this section.
- 17 E. The compact commission shall adopt and provide to the member states
18 an annual report.
- 19 F. Meetings of the compact commission:
- 20 1. All meetings shall be open to the public, except that the compact
21 commission may meet in a closed, non-public meeting as provided in para-
22 graph 2. of this subsection.
- 23 a. Public notice for all meetings of the full compact commission
24 shall be given in the same manner as required under the rulemaking
25 provisions in section 10 of this compact, except that the compact
26 commission may hold a special meeting as provided in subparagraph
27 b. of this paragraph.
- 28 b. The compact commission may hold a special meeting when it must
29 meet to conduct emergency business by giving twenty-four (24)
30 hours' notice to all member states, on the compact commission's
31 website, and other means as provided in the compact commission's
32 rules. The compact commission's legal counsel shall certify that
33 the compact commission's need to meet qualifies as an emergency.
- 34 2. The compact commission or the executive committee or other commit-
35 tees of the compact commission may convene in a closed, non-public meet-
36 ing for the compact commission or executive committee or other commit-
37 tees of the compact commission to receive legal advice or to discuss:
- 38 a. Non-compliance of a member state with its obligations under the
39 compact;
- 40 b. The employment, compensation, discipline, or other matters,
41 practices, or procedures related to specific employees;
- 42 c. Current or threatened discipline of a licensee by the compact
43 commission or by a member state's licensing authority;
- 44 d. Current, threatened, or reasonably anticipated litigation;
- 45 e. Negotiation of contracts for the purchase, lease, or sale of
46 goods, services, or real estate;
- 47 f. Accusing any person of a crime or formally censuring any per-
48 son;
- 49 g. Trade secrets or commercial or financial information that is
50 privileged or confidential;

- 1 h. Information of a personal nature where disclosure would con-
- 2 stitute a clearly unwarranted invasion of personal privacy;
- 3 i. Investigative records compiled for law enforcement purposes;
- 4 j. Information related to any investigative reports prepared by
- 5 or on behalf of or for use of the compact commission or other com-
- 6 mittee charged with responsibility of investigation or determina-
- 7 tion of compliance issues pursuant to the compact;
- 8 k. Matters specifically exempted from disclosure by federal or
- 9 member state law; or
- 10 l. Other matters as specified in the rules of the compact commis-
- 11 sion.

12 3. If a meeting, or portion of a meeting, is closed, the presiding offi-

13 cer shall state that the meeting will be closed and reference each rel-

14 evant exempting provision, and such reference shall be recorded in the

15 minutes.

16 4. The compact commission shall keep minutes that fully and clearly de-

17 scribe all matters discussed in a meeting and shall provide a full and

18 accurate summary of actions taken, and the reasons therefore, includ-

19 ing a description of the views expressed. All documents considered in

20 connection with an action shall be identified in such minutes. All min-

21 utes and documents of a closed meeting shall remain under seal, subject

22 to release only by a majority vote of the compact commission or order of

23 a court of competent jurisdiction.

24 G. Financing of the compact commission:

25 1. The commission shall pay, or provide for the payment of, the reason-

26 able expenses of its establishment, organization, and ongoing activi-

27 ties.

28 2. The compact commission may accept any and all appropriate revenue

29 sources as provided in subsection C.13.

30 3. The compact commission may levy on and collect an annual assessment

31 from each member state and impose fees on licensees of member states to

32 whom it grants a compact privilege to cover the cost of the operations

33 and activities of the compact commission and its staff, which must, in a

34 total amount, be sufficient to cover its annual budget as approved each

35 year for which revenue is not provided by other sources. The aggregate

36 annual assessment amount for member states shall be allocated based

37 upon a formula that the compact commission shall promulgate by rule.

38 4. The compact commission shall not incur obligations of any kind prior

39 to securing the funds adequate to meet the same; nor shall the compact

40 commission pledge the credit of any of the member states, except by and

41 with the authority of the member state.

42 5. The compact commission shall keep accurate accounts of all receipts

43 and disbursements. The receipts and disbursements of the compact

44 commission shall be subject to the financial review and accounting

45 procedures established under its bylaws. However, all receipts and

46 disbursements of funds handled by the compact commission shall be sub-

47 ject to an annual financial review by a certified or licensed public

48 accountant, and the report of the financial review shall be included in

49 and become part of the annual report of the compact commission.

50 H. Qualified immunity, defense, and indemnification:

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

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

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

36 4. Nothing herein shall be construed as a limitation on the liability of
37 any licensee for professional malpractice or misconduct, which shall be
38 governed solely by any other applicable state laws.

39 5. Nothing in this compact shall be interpreted to waive or otherwise
40 abrogate a member state's state action immunity or state action affir-
41 mative defense with respect to antitrust claims under the Sherman act,
42 Clayton act, or any other state or federal antitrust or anticompetitive
43 law or regulation.

44 6. Nothing in this compact shall be construed to be a waiver of
45 sovereign immunity by the member states or by the compact commission.

1 A. The compact commission shall provide for the development, mainte-
2 nance, operation, and utilization of a coordinated data system.

3 B. The compact commission shall assign each applicant for a compact
4 privilege a unique identifier, as determined by the rules.

5 C. Notwithstanding any other provision of state law to the contrary, a
6 member state shall submit a uniform data set to the data system on all indi-
7 viduals to whom this compact is applicable as required by the rules of the
8 compact commission, including:

9 1. Identifying information;

10 2. Licensure data;

11 3. Adverse actions against a license or compact privilege to practice
12 and information related to any such adverse actions;

13 4. Non-confidential information related to alternative program par-
14 ticipation, the beginning and ending dates of such participation, and
15 other information related to such participation not made confidential
16 under member state law;

17 5. Any denial of application for licensure and the reason for such de-
18 nial;

19 6. Current significant investigative information; and

20 7. Other information that may facilitate the administration of this
21 compact or the protection of the public, as determined by the rules of
22 the compact commission.

23 D. The records and information provided to a member state pursuant to
24 this compact or through the data system, when certified by the compact com-
25 mission or an agent thereof, shall constitute the authenticated business
26 records of the compact commission, and shall be entitled to any associated
27 hearsay exception in any relevant judicial, quasi-judicial, or administra-
28 tive proceedings in a member state.

29 E. Current significant investigative information pertaining to a li-
30 censee in any member state will only be available to other member states.

31 F. It is the responsibility of the member states to report any adverse
32 action against a licensee and to monitor the data system to determine whether
33 any adverse action has been taken against a licensee. Adverse action infor-
34 mation pertaining to a licensee in any member state will be available to any
35 other member state.

36 G. Member states contributing information to the data system may sig-
37 nate information that may not be shared with the public without the express
38 permission of the contributing state.

39 H. Any information submitted to the data system that is subsequently
40 expunged pursuant to federal law or the laws of the member state contributing
41 the information shall be removed from the data system.

42 SECTION 10
43 RULEMAKING

44 A. The compact commission shall promulgate reasonable rules in order to
45 effectively and efficiently implement and administer the purposes and pro-
46 visions of the compact. A rule shall be invalid and have no force or effect
47 only if a court of competent jurisdiction holds that the rule is invalid be-
48 cause the compact commission exercised its rulemaking authority in a manner

1 that is beyond the scope and purposes of the compact, or the powers granted
2 hereunder, or based upon another applicable standard of review.

3 B. The rules of the compact commission shall have the force of law in
4 each member state, provided however that where the rules conflict with the
5 laws or regulations of a member state that relate to the procedures, actions,
6 and processes a licensed dietitian is permitted to undertake in that state
7 and the circumstances under which the licensed dietitian may do so, as held
8 by a court of competent jurisdiction, the rules of the compact commission
9 shall be ineffective in that state to the extent of the conflict.

10 C. The compact commission shall exercise its rulemaking powers pur-
11 suant to the criteria set forth in this section and the rules adopted there-
12 under. Rules shall become binding on the day following adoption or as of the
13 date specified in the rule or amendment, whichever is later.

14 D. If a majority of the legislatures of the member states rejects a rule
15 or portion of a rule, by enactment of a statute or resolution in the same man-
16 ner used to adopt the compact within four (4) years of the date of adoption of
17 the rule, then such rule shall have no further force and effect in any member
18 state.

19 E. Rules shall be adopted at a regular or special meeting of the compact
20 commission.

21 F. Prior to adoption of a proposed rule, the compact commission shall
22 hold a public hearing and allow persons to provide oral and written comments,
23 data, facts, opinions, and arguments.

24 G. Prior to adoption of a proposed rule by the compact commission, and
25 at least thirty (30) days in advance of the meeting at which the compact com-
26 mission will hold a public hearing on the proposed rule, the compact commis-
27 sion shall provide a notice of proposed rulemaking:

- 28 1. On the website of the compact commission or other publicly accessi-
29 ble platform;
- 30 2. To persons who have requested notice of the compact commission's no-
31 tices of proposed rulemaking; and
- 32 3. In such other ways as the compact commission may by rule specify.

33 H. The notice of proposed rulemaking shall include:

- 34 1. The time, date, and location of the public hearing at which the com-
35 pact commission will hear public comments on the proposed rule and, if
36 different, the time, date, and location of the meeting where the compact
37 commission will consider and vote on the proposed rule;
- 38 2. If the hearing is held via telecommunication, video conference, or
39 other means of communication, the mechanism for access to the hearing;
- 40 3. The text of the proposed rule and the reason therefore;
- 41 4. A request for comments on the proposed rule from any interested per-
42 son; and
- 43 5. The manner in which interested persons may submit written comments.

44 I. All hearings will be recorded. A copy of the recording and all writ-
45 ten comments and documents received by the compact commission in response to
46 the proposed rule shall be available to the public.

47 J. Nothing in this section shall be construed as requiring a separate
48 hearing on each rule. Rules may be grouped for the convenience of the compact
49 commission at hearings required by this section.

1 K. The compact commission shall, by majority vote of all members, take
2 final action on the proposed rule based on the rulemaking record and the full
3 text of the rule.

4 1. The compact commission may adopt changes to the proposed rule pro-
5 vided the changes do not enlarge the original purpose of the proposed
6 rule.

7 2. The compact commission shall provide an explanation of the reasons
8 for substantive changes made to the proposed rule as well as reasons for
9 substantive changes not made that were recommended by commenters.

10 3. The compact commission shall determine a reasonable effective date
11 for the rule. Except for an emergency as provided in subsection L. of
12 this section, the effective date of the rule shall be no sooner than
13 thirty (30) days after issuing the notice that it adopted or amended the
14 rule.

15 L. Upon determination that an emergency exists, the compact commission
16 may consider and adopt an emergency rule with twenty-four (24) hours' no-
17 tice, with opportunity to comment, provided that the usual rulemaking pro-
18 cedures provided in the compact and in this section shall be retroactively
19 applied to the rule as soon as reasonably possible, in no event later than
20 ninety (90) days after the effective date of the rule. For the purposes of
21 this provision, an emergency rule is one that must be adopted immediately in
22 order to:

23 1. Meet an imminent threat to public health, safety, or welfare;

24 2. Prevent a loss of compact commission or member state funds;

25 3. Meet a deadline for the promulgation of a rule that is established by
26 federal law or rule; or

27 4. Protect public health and safety.

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

40 N. No member state's rulemaking requirements shall apply under this
41 compact.

42 SECTION 11
43 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

44 A. Oversight:

45 1. The executive and judicial branches of state government in each mem-
46 ber state shall enforce this compact and take all actions necessary and
47 appropriate to implement this compact.

1 2. Except as otherwise provided in this compact, venue is proper and
2 judicial proceedings by or against the compact commission shall be
3 brought solely and exclusively in a court of competent jurisdiction
4 where the principal office of the compact commission is located. The
5 compact commission may waive venue and jurisdictional defenses to the
6 extent it adopts or consents to participate in alternative dispute
7 resolution proceedings. Nothing herein shall affect or limit the se-
8 lection or propriety of venue in any action against a licensee for
9 professional malpractice, misconduct, or any such similar matter.

10 3. The compact commission shall be entitled to receive service of
11 process in any proceeding regarding the enforcement or interpretation
12 of the compact and shall have standing to intervene in such a proceeding
13 for all purposes. Failure to provide the compact commission service of
14 process shall render a judgment or order void as to the compact commis-
15 sion, this compact, or promulgated rules.

16 B. Default, technical assistance, and termination:

17 1. If the compact commission determines that a member state has de-
18 faulted in the performance of its obligations or responsibilities under
19 this compact or the promulgated rules, the compact commission shall
20 provide written notice to the defaulting state. The notice of default
21 shall describe the default, the proposed means of curing the default,
22 and any other action that the compact commission may take and shall of-
23 fer training and specific technical assistance regarding the default.

24 2. The compact commission shall provide a copy of the notice of default
25 to the other member states.

26 C. If a state in default fails to cure the default, the defaulting state
27 may be terminated from the compact upon an affirmative vote of a majority of
28 the delegates of the member states, and all rights, privileges, and benefits
29 conferred on that state by this compact may be terminated on the effective
30 date of termination. A cure of the default does not relieve the offending
31 state of obligations or liabilities incurred during the period of default.

32 D. Termination of membership in the compact shall be imposed only after
33 all other means of securing compliance have been exhausted. Notice of in-
34 tent to suspend or terminate shall be given by the compact commission to the
35 governor, the majority and minority leaders of the defaulting state's legis-
36 lature, the defaulting state's licensing authority, and each of the member
37 states' licensing authority.

38 E. A state that has been terminated is responsible for all assessments,
39 obligations, and liabilities incurred through the effective date of termi-
40 nation, including obligations that extend beyond the effective date of ter-
41 mination.

42 F. Upon the termination of a state's membership from this compact, that
43 state shall immediately provide notice to all licensees within that state
44 of such termination. The terminated state shall continue to recognize all
45 compact privileges granted pursuant to this compact for a minimum of six (6)
46 months after the date of said notice of termination.

47 G. The compact commission shall not bear any costs related to a state
48 that is found to be in default or that has been terminated from the compact,
49 unless agreed upon in writing between the compact commission and the de-
50 faulting state.

1 H. The defaulting state may appeal the action of the compact commission
2 by petitioning the United States district court for the District of Columbia
3 or the federal district where the compact commission has its principal of-
4 fices. The prevailing party shall be awarded all costs of such litigation,
5 including reasonable attorney's fees.

6 I. Dispute resolution:

7 1. Upon request by a member state, the compact commission shall at-
8 tempt to resolve disputes related to the compact that arise among member
9 states and between member and non-member states.

10 2. The compact commission shall promulgate a rule providing for both
11 mediation and binding dispute resolution for disputes as appropriate.

12 J. Enforcement:

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

24 2. A member state may initiate legal action against the compact commis-
25 sion in the United States district court for the District of Columbia or
26 the federal district where the compact commission has its principal of-
27 fices to enforce compliance with the provisions of the compact and its
28 promulgated rules. The relief sought may include both injunctive re-
29 lief and damages. In the event judicial enforcement is necessary, the
30 prevailing party shall be awarded all costs of such litigation, includ-
31 ing reasonable attorney's fees.

32 3. No party other than a member state shall enforce this compact against
33 the compact commission.

34 SECTION 12

35 EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

36 A. The compact shall come into effect on the date on which the compact
37 statute is enacted into law in the seventh member state.

38 1. On or after the effective date of the compact, the compact commis-
39 sion shall convene and review the enactment of each of the first seven
40 (7) member states (charter member states) to determine if the statute
41 enacted by each such charter member state is materially different than
42 the model compact statute.

43 a. A charter member state whose enactment is found to be materi-
44 ally different from the model compact statute shall be entitled to
45 the default process set forth in section 11 of this compact.

46 b. If any member state is later found to be in default, or is termi-
47 nated, or withdraws from the compact, the compact commission shall

1 remain in existence and the compact shall remain in effect even if
2 the number of member states should be less than seven (7).

3 2. Member states enacting the compact subsequent to the seven (7) ini-
4 tial charter member states shall be subject to the process set forth in
5 section 8.C.21. to determine if their enactments are materially dif-
6 ferent from the model compact statute and whether they qualify for par-
7 ticipation 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
10 to the effective date of the compact or the compact commission coming
11 into existence shall be considered to be actions of the compact commis-
12 sion unless specifically repudiated by the compact commission.

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

19 B. Any member state may withdraw from this compact by enacting a statute
20 repealing the same.

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

23 2. Withdrawal shall not affect the continuing requirement of the with-
24 drawing 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 li-
29 censees within that state. Notwithstanding any subsequent statutory
30 enactment to the contrary, such withdrawing state shall continue to
31 recognize all compact privileges granted pursuant to this compact for a
32 minimum of one hundred eighty (180) days after the date of such notice of
33 withdrawal.

34 C. Nothing contained in this compact shall be construed to invalidate
35 or prevent any licensure agreement or other cooperative arrangement between
36 a member state and a non-member state that does not conflict with the provi-
37 sions of this compact.

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

41 SECTION 13
42 CONSTRUCTION AND SEVERABILITY

43 A. This compact and the compact commission's rulemaking authority
44 shall be liberally construed so as to effectuate the purposes and the im-
45 plementation and administration of the compact. Provisions of the compact
46 expressly authorizing or requiring the promulgation of rules shall not be
47 construed to limit the compact commission's rulemaking authority solely for
48 those purposes.

