

1 AN ACT relating to dietitians.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO
4 READ AS FOLLOWS:

5 **SECTION 1.**

6 **PURPOSE**

7 **The purpose of this Compact is to facilitate interstate Practice of Dietetics with the goal**
8 **of improving public access to dietetics services. This compact preserves the regulatory**
9 **authority of States to protect public health and safety through the current system of**
10 **State licensure, while also providing for licensure portability through a Compact**
11 **Privilege granted to qualifying professionals. This Compact is designed to achieve the**
12 **following objectives:**

13 **A. Increase public access to dietetics services;**

14 **B. Provide opportunities for interstate practice by Licensed Dietitians who meet**
15 **uniform requirements;**

16 **C. Eliminate the necessity for Licenses in multiple States;**

17 **D. Reduce administrative burden on Member States and Licensees;**

18 **E. Enhance the States' ability to protect the public's health and safety;**

19 **F. Encourage the cooperation of Member States in regulating multistate practice of**
20 **Licensed Dietitians;**

21 **G. Support relocating Active Military Members and their spouses;**

22 **H. Enhance the exchange of licensure, investigative, and disciplinary information**
23 **among Member States; and**

24 **I. Vest all Member States with the authority to hold a Licensed Dietitian**
25 **accountable for meeting all State practice laws in the State in which the patient is**
26 **located at the time care is rendered.**

27 **SECTION 2.**

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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 which 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 nondisciplinary 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 which 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;

- 1 I. "Continuing Education" means a requirement, as a condition of License
2 renewal, to provide evidence of participation in, and completion of, educational
3 and professional activities relevant to practice or area of work;
- 4 J. "Current Significant Investigative Information" means:
- 5 1. Investigative Information that a Licensing Authority, after a preliminary
6 inquiry that includes notification and an opportunity for the subject
7 Licensee to respond, if required by State law, has reason to believe is not
8 groundless and, if proved true, would indicate more than a minor
9 infraction; or
- 10 2. Investigative Information that indicates that the subject Licensee represents
11 an immediate threat to public health and safety regardless of whether the
12 subject Licensee has been notified and had an opportunity to respond;
- 13 K. "Data System" means a repository of information about Licensees, including but
14 not limited to Continuing Education, examination, licensure, investigative,
15 Compact Privilege, and Adverse Action information;
- 16 L. "Encumbered License" means a License in which an Adverse Action restricts a
17 Licensee's ability to practice dietetics;
- 18 M. "Encumbrance" means a revocation or suspension of, or any limitation on, a
19 Licensee's full and unrestricted Practice of Dietetics by a Licensing Authority;
- 20 N. "Executive Committee" means a group of delegates elected or appointed to act on
21 behalf of, and within the powers granted to them by, this Compact, and the
22 Compact Commission;
- 23 O. "Home State" means the Member State that is the Licensee's primary State of
24 residence or that has been designated pursuant to Section 6 of this Compact;
- 25 P. "Investigative Information" means information, records, and documents received
26 or generated by a Licensing Authority pursuant to an investigation;
- 27 Q. "Jurisprudence Requirement" means an assessment of an individual's

1 knowledge of the State laws and regulations governing the Practice of Dietetics in
2 such State;

3 R. "License" means an authorization from a Member State to either:

4 1. Engage in the Practice of Dietetics, including medical nutrition therapy; or
5 2. Use the title "dietitian," "licensed dietitian," "licensed dietitian
6 nutritionist," "certified dietitian," or other title describing a substantially
7 similar practitioner as the Compact Commission may further define by
8 Rule;

9 S. "Licensee" or "Licensed Dietitian" means an individual who currently holds a
10 License and who meets all of the requirements outlined in Section 4 of this
11 Compact;

12 T. "Licensing Authority" means the board or agency of a State, or equivalent, that
13 is responsible for the licensing and regulation of the Practice of Dietetics;

14 U. "Member State" means a State that has enacted the Compact;

15 V. "Practice of Dietetics" means the synthesis and application of dietetics as defined
16 by state law and administrative regulations, primarily for the provision of
17 nutrition care services, including medical nutrition therapy, in person or via
18 telehealth, to prevent, manage, or treat diseases or medical conditions and
19 promote wellness;

20 W. "Registered Dietitian" means a person who:

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

23 2. Is credentialed by CDR as a registered dietitian or a registered dietitian
24 nutritionist; and

25 3. Is legally authorized to use the title registered dietitian or registered dietitian
26 nutritionist and the corresponding abbreviations "RD" or "RDN";

27 X. "Remote State" means a Member State other than the Home State, where a

- 1 Licensee is exercising or seeking to exercise a Compact Privilege;
- 2 Y. "Rule" means a regulation promulgated by the Compact Commission that has
- 3 the force of law;
- 4 Z. "Single State License" means a License issued by a Member State within the
- 5 issuing State and does not include a Compact Privilege in any other Member
- 6 State;
- 7 AA. "State" means any state, commonwealth, district, or territory of the United States
- 8 of America; and
- 9 AB. "Unencumbered License" means a License that authorizes a Licensee to engage
- 10 in the full and unrestricted Practice of Dietetics.

11 SECTION 3.

12 STATE PARTICIPATION IN THE COMPACT

- 13 A. To participate in the Compact, a State must currently:
- 14 1. License and regulate the Practice of Dietetics; and
- 15 2. Have a mechanism in place for receiving and investigating complaints
- 16 about Licensees.
- 17 B. A Member State shall:
- 18 1. Participate fully in the Compact Commission's Data System, including
- 19 using the unique identifier as defined in the Rules;
- 20 2. Notify the Compact Commission, in compliance with the terms of the
- 21 Compact and Rules, of any Adverse Action or the availability of Current
- 22 Significant Investigative Information regarding a Licensee;
- 23 3. Implement or utilize procedures for considering the criminal history record
- 24 information of applicants for an initial Compact Privilege. These
- 25 procedures shall include the submission of fingerprints or other biometric-
- 26 based information by applicants for the purpose of obtaining an applicant's
- 27 criminal history record information from the Federal Bureau of

1 Investigation and the agency responsible for retaining that State's criminal
2 records;

3 a. A Member State must fully implement a criminal history record
4 information requirement, within a time frame established by Rule,
5 which includes receiving the results of the Federal Bureau of
6 Investigation record search and shall use those results in determining
7 Compact Privilege eligibility.

8 b. Communication between a Member State and the Compact
9 Commission or among Member States regarding the verification of
10 eligibility for a Compact Privilege shall not include any information
11 received from the Federal Bureau of Investigation relating to a federal
12 criminal history record information check performed by a Member
13 State;

14 4. Comply with and enforce the Rules of the Compact Commission;

15 5. Require an applicant for a Compact Privilege to obtain or retain a License
16 in the Licensee's Home State and meet the Home State's qualifications for
17 licensure or renewal of licensure, as well as all other applicable State laws;
18 and

19 6. Recognize a Compact Privilege granted to a Licensee who meets all of the
20 requirements outlined in Section 4 of this Compact in accordance with the
21 terms of the Compact and Rules.

22 C. Member States may set and collect a fee for granting a Compact Privilege.

23 D. Individuals not residing in a Member State shall continue to be able to apply for a
24 Member State's Single State License as provided under the laws of each Member
25 State. However, the Single State License granted to these individuals shall not be
26 recognized as granting a Compact Privilege to engage in the Practice of Dietetics
27 in any other Member State.

1 E. Nothing in this Compact shall affect the requirements established by a Member
2 State for the issuance of a Single State License.

3 F. At no point shall the Compact Commission have the power to define the
4 requirements for the issuance of a Single State License to practice dietetics. The
5 Member States shall retain sole jurisdiction over the provision of these
6 requirements.

7 SECTION 4.

8 COMPACT PRIVILEGE

9 A. To exercise the Compact Privilege under the terms and provisions of the
10 Compact, the Licensee shall:

11 1. Satisfy one of the following:

12 a. Hold a valid current registration that gives the applicant the right to
13 use the term Registered Dietitian; or

14 b. Complete all of the following:

15 i. An education program which is either:

16 (a) A master's degree or doctoral degree that is
17 programmatically accredited by ACEND or by a dietetics
18 accrediting agency recognized by the United States Department
19 of Education, which the Compact Commission may by Rule
20 determine, and from a college or university accredited at the time
21 of graduation by the appropriate regional accrediting agency
22 recognized by the Council on Higher Education Accreditation
23 and the United States Department of Education; or

24 (b) An academic degree from a college or university in a
25 foreign country equivalent to the degree described in subpart (a)
26 of this subdivision that is programmatically accredited by
27 ACEND or by a dietetics accrediting agency recognized by the

1 United States Department of Education, which the Compact
2 Commission may by Rule determine.

3 ii. A planned, documented, supervised practice experience in
4 dietetics that is programmatically accredited by ACEND or by a
5 dietetics accrediting agency recognized by the United States
6 Department of Education which the Compact Commission may
7 by Rule determine and which involves at least 1000 hours of
8 practice experience under the supervision of a Registered
9 Dietitian or a Licensed Dietitian; and

10 iii. Successful completion of either the Registration Examination for
11 Dietitians administered by CDR or a national credentialing
12 examination for dietitians approved by the Compact Commission
13 by Rule, with such completion being no more than five (5) years
14 prior to the date of the Licensee's application for initial licensure
15 and accompanied by a period of continuous licensure thereafter,
16 all of which may be further governed by the Rules of the
17 Compact Commission.

18 2. Hold an Unencumbered License in the Home State;

19 3. Notify the Compact Commission that the Licensee is seeking a Compact
20 Privilege within a Remote State or States;

21 4. Pay any applicable fees, including any State fee, for the Compact Privilege;

22 5. Meet any Jurisprudence Requirements established by the Remote State or
23 States in which the Licensee is seeking a Compact Privilege; and

24 6. Report to the Compact Commission any Adverse Action, Encumbrance, or
25 restriction on a License taken by any non-Member State within thirty (30)
26 days from the date the action is taken.

27 B. The Compact Privilege is valid until the expiration date of the Home State

1 License. To maintain a Compact Privilege, renewal of the Compact Privilege
2 shall be congruent with the renewal of the Home State License as the Compact
3 Commission may define by Rule. The Licensee must comply with the
4 requirements of Section 4A. of this Compact to maintain the Compact Privilege in
5 the Remote State or States.

6 C. A Licensee exercising a Compact Privilege shall adhere to the laws and
7 regulations of the Remote State. Licensees shall be responsible for educating
8 themselves on, and complying with, any and all State laws relating to the Practice
9 of Dietetics in such Remote State.

10 D. Notwithstanding anything to the contrary provided in this Compact or State law,
11 a Licensee exercising a Compact Privilege shall not be required to complete
12 Continuing Education Requirements required by a Remote State. A Licensee
13 exercising a Compact Privilege is only required to meet any Continuing
14 Education Requirements as required by the Home State.

15 SECTION 5.

16 OBTAINING A NEW HOME STATE LICENSE BASED ON A COMPACT

17 PRIVILEGE

18 A. A Licensee may hold a Home State License, which allows for a Compact Privilege
19 in other Member States, in only one (1) Member State at a time.

20 B. If a Licensee changes Home State by moving between two (2) Member States:

21 1. The Licensee shall file an application for obtaining a new Home State
22 License based on a Compact Privilege, pay all applicable fees, and notify the
23 current and new Home State in accordance with the Rules of the Compact
24 Commission.

25 2. Upon receipt of an application for obtaining a new Home State License by
26 virtue of a Compact Privilege, the new Home State shall verify that the
27 Licensee meets the criteria in Section 4 of this Compact via the Data

- 1 System, and require that the Licensee complete the following:
- 2 a. Federal Bureau of Investigation fingerprint based criminal history
- 3 record information check;
- 4 b. Any other criminal history record information required by the new
- 5 Home State; and
- 6 c. Any Jurisprudence Requirements of the new Home State.
- 7 3. The former Home State shall convert the former Home State License into a
- 8 Compact Privilege once the new Home State has activated the new Home
- 9 State License in accordance with applicable Rules adopted by the Compact
- 10 Commission.
- 11 4. Notwithstanding any other provision of this Compact, if the Licensee cannot
- 12 meet the criteria in Section 4 of this Compact, the new Home State may
- 13 apply its requirements for issuing a new Single State License.
- 14 5. The Licensee shall pay all applicable fees to the new Home State in order to
- 15 be issued a new Home State License.
- 16 C. If a Licensee changes their State of residence by moving from a Member State to
- 17 a non-Member State, or from a non-Member State to a Member State, the State
- 18 criteria shall apply for issuance of a Single State License in the new State.
- 19 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single
- 20 State License in multiple States; however, for the purposes of this Compact, a
- 21 Licensee shall have only one (1) Home State License.
- 22 E. Nothing in this Compact shall affect the requirements established by a Member
- 23 State for the issuance of a Single State License.

SECTION 6.

ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

26 An Active Military Member, or their spouse, shall designate a Home State where the

27 individual has a current License in good standing. The individual may retain the Home

1 State designation during the period the service member is on active duty.

2 SECTION 7.

3 ADVERSE ACTIONS

4 A. In addition to the other powers conferred by State law, a Remote State shall have
5 the authority, in accordance with existing State due process law, to:

6 1. Take Adverse Action against a Licensee's Compact Privilege within that
7 Member State; and

8 2. Issue subpoenas for both hearings and investigations that require the
9 attendance and testimony of witnesses as well as the production of evidence.

10 Subpoenas issued by a Licensing Authority in a Member State for the
11 attendance and testimony of witnesses or the production of evidence from

12 another Member State shall be enforced in the latter State by any court of
13 competent jurisdiction, according to the practice and procedure applicable

14 to subpoenas issued in proceedings pending before that court. The issuing
15 authority shall pay any witness fees, travel expenses, mileage, and other fees

16 required by the service statutes of the State in which the witnesses or
17 evidence are located.

18 B. Only the Home State shall have the power to take Adverse Action against a
19 Licensee's Home State License.

20 C. For purposes of taking Adverse Action, the Home State shall give the same
21 priority and effect to reported conduct received from a Member State as it would

22 if the conduct had occurred within the Home State. In so doing, the Home State
23 shall apply its own State laws to determine appropriate action.

24 D. The Home State shall complete any pending investigations of a Licensee who
25 changes Home States during the course of the investigations. The Home State

26 shall also have authority to take appropriate action and shall promptly report the
27 conclusions of the investigations to the administrator of the Data System. The

1 administrator of the Data System shall promptly notify the new Home State of
2 any Adverse Actions.

3 E. A Member State, if otherwise permitted by State law, may recover from the
4 affected Licensee the costs of investigations and dispositions of cases resulting
5 from any Adverse Action taken against that Licensee.

6 F. A Member State may take Adverse Action based on the factual findings of
7 another Remote State, provided that the Member State follows its own procedures
8 for taking the Adverse Action.

9 G. Joint Investigations

10 1. In addition to the authority granted to a Member State by its respective State
11 law, any Member State may participate with other Member States in joint
12 investigations of Licensees.

13 2. Member States shall share any investigative, litigation, or compliance
14 materials in furtherance of any joint investigation initiated under the
15 Compact.

16 H. If Adverse Action is taken by the Home State against a Licensee's Home State
17 License resulting in an Encumbrance on the Home State License, the Licensee's
18 Compact Privilege in all other Member States shall be revoked until all
19 Encumbrances have been removed from the Home State License. All Home State
20 disciplinary orders that impose Adverse Action against a Licensee shall include a
21 statement that the Licensee's Compact Privileges are revoked in all Member
22 States during the pendency of the order.

23 I. Once an Encumbered License in the Home State is restored to an Unencumbered
24 License, as certified by the Home State's Licensing Authority, the Licensee must
25 meet the requirements of Section 4A. of this Compact and follow the
26 administrative requirements to reapply to obtain a Compact Privilege in any
27 Remote State.

1 J. If a Member State takes Adverse Action, it shall promptly notify the administrator
2 of the Data System. The administrator of the Data System shall promptly notify
3 the other Member States State of any Adverse Actions.

4 K. Nothing in this Compact shall override a Member State's decision that
5 participation in an Alternative Program may be used in lieu of Adverse Action.

6 SECTION 8.

7 ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION

8 A. The Compact Member States hereby create and establish a joint government
9 agency whose membership consists of all Member States that have enacted the
10 Compact known as the Dietitian Licensure Compact Commission. The Compact
11 Commission is an instrumentality of the Compact States acting jointly and not an
12 instrumentality of any one (1) State. The Compact Commission shall come into
13 existence on or after the effective date of the Compact as set forth in Section 12 of
14 this Compact.

15 B. Membership, Voting, and Meetings

16 1. Each Member State shall have and be limited to one (1) delegate selected by
17 that Member State's Licensing Authority.

18 2. The delegate shall be the primary administrator of the Licensing Authority
19 or their designee.

20 3. The Compact Commission shall by Rule or bylaw establish a term of office
21 for delegates and may by Rule or bylaw establish term limits.

22 4. The Compact Commission may recommend removal or suspension of any
23 delegate from office.

24 5. A Member State's Licensing Authority shall fill any vacancy of its delegate
25 occurring on the Compact Commission within sixty (60) days of the
26 vacancy.

27 6. Each delegate shall be entitled to one vote on all matters before the

- 1 Compact Commission requiring a vote by the delegates.
- 2 7. Delegates shall meet and vote by such means as set forth in the bylaws. The
3 bylaws may provide for delegates to meet and vote in-person or by
4 telecommunication, video conference, or other means of communication.
- 5 8. The Compact Commission shall meet at least once during each calendar
6 year. Additional meetings may be held as set forth in the bylaws. The
7 Compact Commission may meet in person or by telecommunication, video
8 conference, or other means of communication.
- 9 C. The Compact Commission shall have the following powers:
- 10 1. Establish the fiscal year of the Compact Commission;
- 11 2. Establish code of conduct and conflict of interest policies;
- 12 3. Establish and amend Rules and bylaws;
- 13 4. Maintain its financial records in accordance with the bylaws;
- 14 5. Meet and take such actions as are consistent with the provisions of this
15 Compact, the Compact Commission's Rules, and the bylaws;
- 16 6. Initiate and conclude legal proceedings or actions in the name of the
17 Compact Commission, provided that the standing of any Licensing
18 Authority to sue or be sued under applicable law shall not be affected;
- 19 7. Maintain and certify records and information provided to a Member State
20 as the authenticated business records of the Compact Commission, and
21 designate an agent to do so on the Compact Commission's behalf;
- 22 8. Purchase and maintain insurance and bonds;
- 23 9. Borrow, accept, or contract for services of personnel, including but not
24 limited to employees of a Member State;
- 25 10. Conduct an annual financial review;
- 26 11. Hire employees, elect or appoint officers, fix compensation, define duties,
27 grant such individuals appropriate authority to carry out the purposes of the

- 1 Compact, and establish the Compact Commission's personnel policies and
2 programs relating to conflicts of interest, qualifications of personnel, and
3 other related personnel matters;
- 4 12. Assess and collect fees;
- 5 13. Accept any and all appropriate donations, grants of money, other sources of
6 revenue, equipment, supplies, materials, services, and gifts, and receive,
7 utilize, and dispose of the same; provided that at all times the Compact
8 Commission shall avoid any actual or appearance of impropriety or conflict
9 of interest;
- 10 14. Lease, purchase, retain, own, hold, improve, or use any property, real,
11 personal, or mixed, or any undivided interest therein;
- 12 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
13 dispose of any property, real, personal, or mixed;
- 14 16. Establish a budget and make expenditures;
- 15 17. Borrow money;
- 16 18. Appoint committees, including standing committees, composed of members,
17 State regulators, State legislators or their representatives, consumer
18 representatives, and such other interested persons as may be designated in
19 this Compact or the bylaws;
- 20 19. Provide and receive information from, and cooperate with, law enforcement
21 agencies;
- 22 20. Establish and elect an Executive Committee, including a chair and a vice
23 chair;
- 24 21. Determine whether a State's adopted language is materially different from
25 the model compact language such that the State would not qualify for
26 participation in the Compact; and
- 27 22. Perform such other functions as may be necessary or appropriate to achieve

1 the purposes of this Compact.

2 D. The Executive Committee

3 1. The Executive Committee shall have the power to act on behalf of the
4 Compact Commission according to the terms of this Compact. The powers,
5 duties, and responsibilities of the Executive Committee shall include:

6 a. Oversee the day-to-day activities of the administration of the Compact
7 including enforcement and compliance with the provisions of the
8 Compact, its Rules and bylaws, and other such duties as deemed
9 necessary;

10 b. Recommend to the Compact Commission changes to the Rules or
11 bylaws, changes to this Compact legislation, fees charged to Compact
12 Member States, fees charged to Licensees, and other fees;

13 c. Ensure Compact administration services are appropriately provided,
14 including by contract;

15 d. Prepare and recommend the budget;

16 e. Maintain financial records on behalf of the Compact Commission;

17 f. Monitor Compact compliance of Member States and provide
18 compliance reports to the Compact Commission;

19 g. Establish additional committees as necessary;

20 h. Exercise the powers and duties of the Compact Commission during
21 the interim between Compact Commission meetings, except for
22 adopting or amending Rules, adopting or amending bylaws, and
23 exercising any other powers and duties expressly reserved to the
24 Compact Commission by Rule or bylaw; and

25 i. Other duties as provided in the Rules or bylaws of the Compact
26 Commission.

27 2. The Executive Committee shall be composed of nine (9) members:

- 1 a. The chair and vice chair of the Compact Commission shall be voting
2 members of the Executive Committee;
- 3 b. Five (5) voting members from the current membership of the Compact
4 Commission, elected by the Compact Commission;
- 5 c. One (1) ex-officio, nonvoting member from a recognized professional
6 association representing dietitians; and
- 7 d. One (1) ex-officio, nonvoting member from a recognized national
8 credentialing organization for dietitians.
- 9 3. The Compact Commission may remove any member of the Executive
10 Committee as provided in the Compact Commission's bylaws.
- 11 4. The Executive Committee shall meet at least annually.
- 12 a. Executive Committee meetings shall be open to the public, except that
13 the Executive Committee may meet in a closed, non-public meeting as
14 provided in subsection F.2. of this Compact.
- 15 b. The Executive Committee shall give 30 days' notice of its meetings,
16 posted on the website of the Compact Commission and as determined
17 to provide notice to persons with an interest in the business of the
18 Compact Commission.
- 19 c. The Executive Committee may hold a special meeting in accordance
20 with subsection F.1.b. of this section.
- 21 E. The Compact Commission shall adopt and provide to the Member States an
22 annual report.
- 23 F. Meetings of the Compact Commission
- 24 1. All meetings shall be open to the public, except that the Compact
25 Commission may meet in a closed, non-public meeting as provided in
26 paragraph 2. of this subsection.
- 27 a. Public notice for all meetings of the full Compact Commission shall

- 1 begiven in the same manner as required under the rulemaking
2 provisions in Section 10 of this Compact, except that the Compact
3 Commission may hold a special meeting as provided in subparagraph
4 (b) of this paragraph.
- 5 b. The Compact Commission may hold a special meeting when it must
6 meet to conduct emergency business by giving twenty-four (24) hours'
7 notice to all Member States, on the Compact Commission's website,
8 and other means as provided in the Compact Commission's Rules. The
9 Compact Commission's legal counsel shall certify that the Compact
10 Commission's need to meet qualifies as an emergency.
- 11 2. The Compact Commission or the Executive Committee or other committees
12 of the Compact Commission may convene in a closed, nonpublic meeting
13 for the Compact Commission or Executive Committee or other committees
14 of the Compact Commission to receive legal advice or to discuss:
- 15 a. Noncompliance of a Member State with its obligations under the
16 Compact;
- 17 b. The employment, compensation, discipline, or other matters, practices,
18 or procedures related to specific employees;
- 19 c. Current or threatened discipline of a Licensee by the Compact
20 Commission or by a Member State's Licensing Authority;
- 21 d. Current, threatened, or reasonably anticipated litigation;
- 22 e. Negotiation of contracts for the purchase, lease, or sale of goods,
23 services, or real estate;
- 24 f. Accusing any person of a crime or formally censuring any person;
- 25 g. Trade secrets or commercial or financial information that is privileged
26 or confidential;
- 27 h. Information of a personal nature where disclosure would constitute a

- 1 clearly unwarranted invasion of personal privacy;
- 2 i. Investigative records compiled for law enforcement purposes;
- 3 j. Information related to any investigative reports prepared by or on
- 4 behalf of or for use of the Compact Commission or other committee
- 5 charged with responsibility of investigation or determination of
- 6 compliance issues pursuant to the Compact;
- 7 k. Matters specifically exempted from disclosure by federal or Member
- 8 State law; or
- 9 l. Other matters as specified in the Rules of the Compact Commission.
- 10 3. If a meeting, or portion of a meeting, is closed, the presiding officer shall
- 11 state that the meeting will be closed and reference each relevant exempting
- 12 provision, and such reference shall be recorded in the minutes.
- 13 4. The Compact Commission shall keep minutes that fully and clearly describe
- 14 all matters discussed in a meeting and shall provide a full and accurate
- 15 summary of actions taken, and the reasons therefore, including a
- 16 description of the views expressed. All documents considered in connection
- 17 with an action shall be identified in such minutes. All minutes and
- 18 documents of a closed meeting shall remain under seal, subject to release
- 19 only by a majority vote of the Compact Commission or order of a court of
- 20 competent jurisdiction.
- 21 G. Financing of the Compact Commission
- 22 1. The Compact Commission shall pay, or provide for the payment of, the
- 23 reasonable expenses of its establishment, organization, and ongoing
- 24 activities.
- 25 2. The Compact Commission may accept any and all appropriate revenue
- 26 sources as provided in subsection C.13. of this section.
- 27 3. The Compact Commission may levy on and collect an annual assessment

1 from each Member State and impose fees on Licensees of Member States to
2 whom it grants a Compact Privilege to cover the cost of the operations and
3 activities of the Compact Commission and its staff, which must, in a total
4 amount, be sufficient to cover its annual budget as approved each year for
5 which revenue is not provided by other sources. The aggregate annual
6 assessment amount for Member States shall be allocated based upon a
7 formula that the Compact Commission shall promulgate by Rule.

8 4. The Compact Commission shall not incur obligations of any kind prior to
9 securing the funds adequate to meet the same; nor shall the Compact
10 Commission pledge the credit of any of the Member States, except by and
11 with the authority of the Member State.

12 5. The Compact Commission shall keep accurate accounts of all receipts and
13 disbursements. The receipts and disbursements of the Compact Commission
14 shall be subject to the financial review and accounting procedures
15 established under its bylaws. However, all receipts and disbursements of
16 funds handled by the Compact Commission shall be subject to an annual
17 financial review by a certified or licensed public accountant, and the report
18 of the financial review shall be included in and become part of the annual
19 report of the Compact Commission.

20 H. Qualified Immunity, Defense, and Indemnification

21 1. The members, officers, executive director, employees, and representatives of
22 the Compact Commission shall be immune from suit and liability, both
23 personally and in their official capacity, for any claim for damage to or loss
24 of property or personal injury or other civil liability caused by or arising out
25 of any actual or alleged act, error, or omission that occurred, or that the
26 person against whom the claim is made had a reasonable basis for believing
27 occurred, within the scope of Compact Commission employment, duties, or

1 responsibilities; provided that nothing in this paragraph shall be construed
2 to protect any such person from suit or liability for any damage, loss, injury,
3 or liability caused by the intentional or willful or wanton misconduct of that
4 person. The procurement of insurance of any type by the Compact
5 Commission shall not in any way compromise or limit the immunity granted
6 hereunder.

7 2. The Compact Commission shall defend any member, officer, executive
8 director, employee, and representative of the Compact Commission in any
9 civil action seeking to impose liability arising out of any actual or alleged
10 act, error, or omission that occurred within the scope of Compact
11 Commission employment, duties, or responsibilities, or as determined by the
12 Compact Commission that the person against whom the claim is made had
13 a reasonable basis for believing occurred within the scope of Compact
14 Commission employment, duties, or responsibilities; provided that nothing
15 herein shall be construed to prohibit that person from retaining their own
16 counsel at their own expense; and provided further, that the actual or
17 alleged act, error, or omission did not result from that person's intentional
18 or willful or wanton misconduct.

19 3. The Compact Commission shall indemnify and hold harmless any member,
20 officer, executive director, employee, and representative of the Compact
21 Commission for the amount of any settlement or judgment obtained against
22 that person arising out of any actual or alleged act, error, or omission that
23 occurred within the scope of Compact Commission employment, duties, or
24 responsibilities, or that such person had a reasonable basis for believing
25 occurred within the scope of Compact Commission employment, duties, or
26 responsibilities, provided that the actual or alleged act, error, or omission
27 did not result from the intentional or willful or wanton misconduct of that

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person.

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

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State’s state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Compact Commission.

SECTION 9.

DATA SYSTEM

A. The Compact Commission shall provide for the development, maintenance, operation, and utilization of a coordinated Data System.

B. The Compact Commission shall assign each applicant for a Compact Privilege a unique identifier, as determined by the Rules.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Compact Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a License or Compact Privilege and information related thereto;

4. Nonconfidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under Member State

1 effectively and efficiently implement and administer the purposes and provisions
2 of the Compact. A Rule shall be invalid and have no force or effect only if a court
3 of competent jurisdiction holds that the Rule is invalid because the Compact
4 Commission exercised its rulemaking authority in a manner that is beyond the
5 scope and purposes of the Compact, or the powers granted hereunder, or based
6 upon another applicable standard of review.

7 B. The Rules of the Compact Commission shall have the force of law in each
8 Member State, provided however that where the Rules conflict with the laws or
9 regulations of a Member State that relate to the procedures, actions, and
10 processes a Licensed Dietitian is permitted to undertake in that State and the
11 circumstances under which they may do so, as held by a court of competent
12 jurisdiction, the Rules of the Compact Commission shall be ineffective in that
13 State to the extent of the conflict.

14 C. The Compact Commission shall exercise its rulemaking powers pursuant to the
15 criteria set forth in this Section and the Rules adopted thereunder. Rules shall
16 become binding on the day following adoption or as of the date specified in the
17 Rule or amendment, whichever is later.

18 D. If a majority of the legislatures of the Member States rejects a Rule or portion of
19 a Rule, by enactment of a statute or resolution in the same manner used to adopt
20 the Compact within four (4) years of the date of adoption of the Rule, then such
21 Rule shall have no further force and effect in any Member State.

22 E. Rules shall be adopted at a regular or special meeting of the Compact
23 Commission.

24 F. Prior to adoption of a proposed Rule, the Compact Commission shall hold a
25 public hearing and allow persons to provide oral and written comments, data,
26 facts, opinions, and arguments.

27 G. Prior to adoption of a proposed Rule by the Compact Commission, and at least

1 thirty (30) days in advance of the meeting at which the Compact Commission will
2 hold a public hearing on the proposed Rule, the Compact Commission shall
3 provide a Notice of Proposed rulemaking:

4 1. On the website of the Compact Commission or other publicly accessible
5 platform;

6 2. To persons who have requested notice of the Compact Commission's notices
7 of proposed rulemaking; and

8 3. In such other ways as the Compact Commission may by Rule specify.

9 H. The Notice of Proposed rulemaking shall include:

10 1. The time, date, and location of the public hearing at which the Compact
11 Commission will hear public comments on the proposed Rule and, if
12 different, the time, date, and location of the meeting where the Compact
13 Commission will consider and vote on the proposed Rule;

14 2. If the hearing is held via telecommunication, video conference, or other
15 means of communication, the Compact Commission shall include the
16 mechanism for access to the hearing in the Notice of Proposed rulemaking;

17 3. The text of the proposed Rule and the reason therefore;

18 4. A request for comments on the proposed Rule from any interested person;
19 and

20 5. The manner in which interested persons may submit written comments.

21 I. All hearings will be recorded. A copy of the recording and all written comments
22 and documents received by the Compact Commission in response to the proposed
23 Rule shall be available to the public.

24 J. Nothing in this Section shall be construed as requiring a separate hearing on
25 each Rule. Rules may be grouped for the convenience of the Compact
26 Commission at hearings required by this section.

27 K. The Compact Commission shall, by majority vote of all members, take final

1 action on the proposed Rule based on the rulemaking record and the full text of
2 the Rule.

3 1. The Compact Commission may adopt changes to the proposed Rule
4 provided the changes do not enlarge the original purpose of the proposed
5 Rule.

6 2. The Compact Commission shall provide an explanation of the reasons for
7 substantive changes made to the proposed Rule as well as reasons for
8 substantive changes not made that were recommended by commenters.

9 3. The Compact Commission shall determine a reasonable effective date for
10 the Rule. Except for an emergency as provided in Section 10.L., the effective
11 date of the Rule shall be no sooner than thirty (30) days after issuing the
12 notice that it adopted or amended the Rule.

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

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

21 2. Prevent a loss of Compact Commission or Member State funds;

22 3. Meet a deadline for the promulgation of a Rule that is established by federal
23 law or rule; or

24 4. Protect public health and safety.

25 M. The Compact Commission or an authorized committee of the Compact
26 Commission may direct revision to a previously adopted Rule for purposes of
27 correcting typographical errors, errors in format, errors in consistency, or

1 grammatical errors. Public notice of any revision shall be posted on the website
2 of the Compact Commission. The revision shall be subject to challenge by any
3 person for a period of thirty (30) days after posting. The revision may be
4 challenged only on grounds that the revision results in a material change to a
5 Rule. A challenge shall be made in writing and delivered to the Compact
6 Commission prior to the end of the notice period. If no challenge is made, the
7 revision will take effect without further action. If the revision is challenged, the
8 revision may not take effect without the approval of the Compact Commission.
9 N. No Member State's rulemaking requirements shall apply under this Compact.

10 SECTION 11.

11 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

12 A. Oversight

- 13 1. The executive and judicial branches of State government in each Member
14 State shall enforce this Compact and take all actions necessary and
15 appropriate to implement this Compact.
- 16 2. Except as otherwise provided in this Compact, venue is proper and judicial
17 proceedings by or against the Compact Commission shall be brought solely
18 and exclusively in a court of competent jurisdiction where the principal
19 office of the Compact Commission is located. The Compact Commission
20 may waive venue and jurisdictional defenses to the extent it adopts or
21 consents to participate in alternative dispute resolution proceedings.
22 Nothing herein shall affect or limit the selection or propriety of venue in
23 any action against a Licensee for professional malpractice, misconduct, or
24 any such similar matter.
- 25 3. The Compact Commission shall be entitled to receive service of process in
26 any proceeding regarding the enforcement or interpretation of the Compact
27 and shall have standing to intervene in such a proceeding for all purposes.

1 Failure to provide the Compact Commission service of process shall render
2 a judgment or order void as to the Compact Commission, this Compact, or
3 promulgated Rules.

4 **B. Default, Technical Assistance, and Termination**

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

12 2. The Compact Commission shall provide a copy of the notice of default to
13 the other Member States.

14 **C. If a State in default fails to cure the default, the defaulting State may be**
15 terminated from the Compact upon an affirmative vote of a majority of the
16 delegates of the Member States, and all rights, privileges, and benefits conferred
17 on that State by this Compact may be terminated on the effective date of
18 termination. A cure of the default does not relieve the offending State of
19 obligations or liabilities incurred during the period of default.

20 **D. Termination of membership in the Compact shall be imposed only after all other**
21 means of securing compliance have been exhausted. Notice of intent to suspend
22 or terminate shall be given by the Compact Commission to the governor, the
23 majority and minority leaders of the defaulting State's legislature, the defaulting
24 State's Licensing Authority, and each of the Member States' Licensing Authority.

25 **E. A State that has been terminated is responsible for all assessments, obligations,**
26 and liabilities incurred through the effective date of termination, including
27 obligations that extend beyond the effective date of termination.

1 *F. Upon the termination of a State's membership from this Compact, that State shall*
2 *immediately provide notice to all Licensees within that State of such termination.*

3 *The terminated State shall continue to recognize all Compact Privileges granted*
4 *pursuant to this Compact for a minimum of six (6) months after the date of said*
5 *notice of termination.*

6 *G. The Compact Commission shall not bear any costs related to a State that is found*
7 *to be in default or that has been terminated from the Compact, unless agreed*
8 *upon in writing between the Compact Commission and the defaulting State.*

9 *H. The defaulting State may appeal the action of the Compact Commission by*
10 *petitioning the United States District Court for the District of Columbia or the*
11 *federal district where the Compact Commission has its principal offices. The*
12 *prevailing party shall be awarded all costs of such litigation, including*
13 *reasonable attorney's fees.*

14 *I. Dispute Resolution*

15 *1. Upon request by a Member State, the Compact Commission shall attempt to*
16 *resolve disputes related to the Compact that arise among Member States and*
17 *between Member and non-Member States.*

18 *2. The Compact Commission shall promulgate a Rule providing for both*
19 *mediation and binding dispute resolution for disputes as appropriate.*

20 *J. Enforcement*

21 *1. By supermajority vote, the Compact Commission may initiate legal action*
22 *against a Member State in default in the United States District Court for the*
23 *District of Columbia or the federal district where the Compact Commission*
24 *has its principal offices to enforce compliance with the provisions of the*
25 *Compact and its promulgated Rules. The relief sought may include both*
26 *injunctive relief and damages. In the event judicial enforcement is*
27 *necessary, the prevailing party shall be awarded all costs of such litigation,*

1 including reasonable attorney's fees. The remedies herein shall not be the
2 exclusive remedies of the Compact Commission. The Compact Commission
3 may pursue any other remedies available under federal or the defaulting
4 Member State's law.

5 2. A Member State may initiate legal action against the Compact Commission
6 in the United States 21 District Court for the District of Columbia or the
7 federal district where the Compact Commission has its principal offices to
8 enforce compliance with the provisions of the Compact and its promulgated
9 Rules. The relief sought may include both injunctive relief and damages. In
10 the event judicial enforcement is necessary, the prevailing party shall be
11 awarded all costs of such litigation, including reasonable attorney's fees.

12 3. No party other than a Member State shall enforce this Compact against the
13 Compact Commission.

14 SECTION 12.

15 EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

16 A. The Compact shall come into effect on the date on which the Compact statute is
17 enacted into law in the seventh Member State.

18 1. On or after the effective date of the Compact, the Compact Commission
19 shall convene and review the enactment of each of the first seven Member
20 States ("Charter Member States") to determine if the statute enacted by
21 each such Charter Member State is materially different than the model
22 Compact statute.

23 a. A Charter Member State whose enactment is found to be materially
24 different from the model Compact statute shall be entitled to the
25 default process set forth in Section 11 of this Compact.

26 b. If any Member State is later found to be in default, or is terminated, or
27 withdraws from the Compact, the Compact Commission shall remain

1 in existence and the Compact shall remain in effect even if the
2 number of Member States should be less than seven (7).

3 2. Member States enacting the Compact subsequent to the seven (7) initial
4 Charter Member States shall be subject to the process set forth in Section
5 8.C.21. to determine if their enactments are materially different from the
6 model Compact statute and whether they qualify for participation in the
7 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 Commission's
14 initial adoption of the Rules and bylaws shall be subject to the Rules and
15 bylaws as they exist on the date on which the Compact becomes law in that
16 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 statute
20 repealing the same.

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

23 2. Withdrawal shall not affect the continuing requirement of the withdrawing
24 State's Licensing Authority to comply with the investigative and Adverse
25 Action reporting requirements of this Compact prior to the effective date of
26 withdrawal.

27 3. Upon the enactment of a statute withdrawing from this Compact, a State

1 C. Notwithstanding Section 13.B., the Compact Commission may deny a State's
2 participation in the Compact or, in accordance with the requirements of Section
3 11.B., terminate a Member State's participation in the Compact, if it determines
4 that a constitutional requirement of a Member State is a material departure from
5 the Compact. Otherwise, if this Compact shall be held to be contrary to the
6 constitution of any Member State, the Compact shall remain in full force and
7 effect as to the remaining Member States and in full force and effect as to the
8 Member State affected as to all severable matters.

9 SECTION 14.

10 CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

11 A. Nothing herein shall prevent or inhibit the enforcement of any other law of a
12 Member State that is not inconsistent with the Compact.

13 B. Any laws, statutes, regulations, or other legal requirements in a Member State in
14 conflict with the Compact are superseded to the extent of the conflict.

15 C. All permissible agreements between the Compact Commission and the Member
16 States are binding in accordance with their terms.