

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 accountable***

25       ***for meeting all state practice laws in the state in which the patient is located at the***

26       ***time care is rendered.***

27                   **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 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 renewal,  
2    *to provide evidence of participation in, and completion of, educational and*  
3    *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 licensee*  
7    *to respond, if required by state law, has reason to believe is not groundless*  
8    *and, if proved true, would indicate more than a minor infraction; or*

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

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

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

17    **M.** *"Encumbrance"* means a revocation or suspension of, or any limitation on, a  
18    *licensee's full and unrestricted practice of dietetics by a licensing authority;*

19    **N.** *"Executive committee"* means a group of delegates elected or appointed to act on  
20    *behalf of, and within the powers granted to them by, this compact and the*  
21    *compact commission;*

22    **O.** *"Home state"* means the member state that is the licensee's primary state of  
23    *residence or that has been designated pursuant to Section 6 of this compact;*

24    **P.** *"Investigative information"* means information, records, and documents received  
25    *or generated by a licensing authority pursuant to an investigation;*

26    **Q.** *"Jurisprudence requirement"* means an assessment of an individual's knowledge  
27    *of the state laws and regulations governing the practice of dietetics in such state;*

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

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

3    2. Use the title "dietitian," "licensed dietitian," "licensed dietitian

4    nutritionist," "certified dietitian," or other title describing a substantially

5    similar practitioner as the compact commission may further define by rule;

6    **S. "Licensee" or "licensed dietitian"** means an individual who currently holds a

7    license and who meets all of the requirements outlined in Section 4 of this

8    compact;

9    **T. "Licensing authority"** means the board or agency of a state, or equivalent, that is

10    responsible for the licensing and regulation of the practice of dietetics;

11    **U. "Member state"** means a state that has enacted the compact;

12    **V. "Practice of dietetics"** means the synthesis and application of dietetics as defined

13    by state law and administrative regulations, primarily for the provision of

14    nutrition care services, including medical nutrition therapy, in person or via

15    telehealth, to prevent, manage, or treat diseases or medical conditions and

16    promote wellness;

17    **W. "Registered dietitian"** means a person who:

18    1. Has completed applicable education, experience, examination, and

19    recertification requirements approved by CDR;

20    2. Is credentialed by CDR as a registered dietitian or a registered dietitian

21    nutritionist; and

22    3. Is legally authorized to use the title registered dietitian or registered dietitian

23    nutritionist and the corresponding abbreviations "RD" or "RDN";

24    **X. "Remote state"** means a member state other than the home state, where a

25    licensee is exercising or seeking to exercise a compact privilege;

26    **Y. "Rule"** means a regulation promulgated by the compact commission that has the

27    force of law;

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

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

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

### SECTION 3.

## **STATE PARTICIPATION IN THE COMPACT**

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

**1. License and regulate the practice of dietetics; and**

**2. Have a mechanism in place for receiving and investigating complaints about licensees.**

***B. A member state shall:***

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

2. Notify the compact commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;

3. Implement or utilize procedures for considering the criminal history record information of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

a. A member state must fully implement a criminal history record information requirement, within a time frame established by rule.

which includes receiving the results of the Federal Bureau of Investigation record search and shall use those results in determining compact privilege eligibility.

b. Communication between a member state and the compact commission or among member states regarding the verification of eligibility for a compact privilege shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal history record information check performed by a member state;

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

5. *Require an applicant for a compact privilege to obtain or retain a license in the licensee's home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws; and*

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

**C. Member states may set and collect a fee for granting a compact privilege.**

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

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

F. At no point shall the compact commission have the power to define the requirements for the issuance of a single state license to practice dietetics. The member states shall retain sole jurisdiction over the provision of these

1        requirements.

2                    **SECTION 4.**

3                    **COMPACT PRIVILEGE**

4        **A. To exercise the compact privilege under the terms and provisions of the compact,**  
5        **the licensee shall:**

6        **1. Satisfy one (1) of the following:**

7                    **a. Hold a valid current registration that gives the applicant the right to**  
8                    **use the term registered dietitian; or**

9                    **b. Complete all of the following:**

10                    **i. An education program which is either:**

11                    **(a) A master's degree or doctoral degree that is**  
12                    **programmatically accredited by ACEND or by a dietetics**  
13                    **accrediting agency recognized by the United States**  
14                    **Department of Education, which the compact commission**  
15                    **may by rule determine, and from a college or university**  
16                    **accredited at the time of graduation by the appropriate**  
17                    **regional accrediting agency recognized by the Council on**  
18                    **Higher Education Accreditation and the United States**  
19                    **Department of Education; or**

20                    **(b) An academic degree from a college or university in a**  
21                    **foreign country equivalent to the degree described in**  
22                    **subsection A.1.b.i. of this section that is programmatically**  
23                    **accredited by ACEND or by a dietetics accrediting agency**  
24                    **recognized by the United States Department of Education,**  
25                    **which the compact commission may by rule determine;**

26                    **ii. A planned, documented, supervised practice experience in**  
27                    **dietetics that is programmatically accredited by ACEND or by a**

dietetics accrediting agency recognized by the United States Department of Education which the compact commission may by rule determine and which involves at least one thousand (1,000) hours of practice experience under the supervision of a registered dietitian or a licensed dietitian; and

*iii. Successful completion of either the registration examination for dietitians administered by CDR or a national credentialing examination for dietitians approved by the compact commission by rule, with such completion being no more than five (5) years prior to the date of the licensee's application for initial licensure and accompanied by a period of continuous licensure thereafter, all of which may be further governed by the Rules of the compact commission.*

**2. Hold an unencumbered license in the home state;**

3. Notify the compact commission that the licensee is seeking a compact privilege within a remote state or states;

**4. Pay any applicable fees, including any state fee, for the compact privilege:**

**5. Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a compact privilege; and**

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

**B. The compact privilege is valid until the expiration date of the home state license.**

To maintain a compact privilege, renewal of the compact privilege shall be congruent with the renewal of the home state license as the compact commission may define by rule. The licensee must comply with the requirements of subsection

1       C. A licensee exercising a compact privilege shall adhere to the laws and regulations  
2       of the remote state. Licensees shall be responsible for educating themselves on,  
3       and complying with, any and all state laws relating to the practice of dietetics in  
4       such remote state.

5       D. Notwithstanding anything to the contrary provided in this compact or state law, a  
6       licensee exercising a compact privilege shall not be required to complete  
7       continuing education requirements required by a remote state. A licensee  
8       exercising a compact privilege is only required to meet any continuing education  
9       requirements as required by the home state.

10       SECTION 5.

11       OBTAINING A NEW HOME STATE LICENSE BASED ON A COMPACT  
12       PRIVILEGE

13       A. A licensee may hold a home state license, which allows for a compact privilege in  
14       other member states, in only one (1) member state at a time.

15       B. If a licensee changes home state by moving between two (2) member states:

16       1. The licensee shall file an application for obtaining a new home state license  
17       based on a compact privilege, pay all applicable fees, and notify the current  
18       and new home state in accordance with the rules of the compact  
19       commission;

20       2. Upon receipt of an application for obtaining a new home state license by  
21       virtue of a compact privilege, the new home state shall verify that the  
22       licensee meets the criteria in Section 4 of this compact via the data system,  
23       and require that the licensee complete the following:

24       a. Federal Bureau of Investigation fingerprint based criminal history  
25       record information check;

26       b. Any other criminal history record information required by the new  
27       home state; and

1                   c. Any jurisprudence requirements of the new home state;

2                   3. The former home state shall convert the former home state license into a  
3                   compact privilege once the new home state has activated the new home state  
4                   license in accordance with applicable rules adopted by the compact  
5                   commission;

6                   4. Notwithstanding any other provision of this compact, if the licensee cannot  
7                   meet the criteria in Section 4 of this compact, the new home state may apply  
8                   its requirements for issuing a new single state license; and

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

11                  C. If a license changes their state of residence by moving from a member state to a  
12                  nonmember state, or from a nonmember state to a member state, the state criteria  
13                  shall apply for issuance of a single state license in the new state.

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

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

19                   **SECTION 6.**

20                   **ACTIVE MILITARY MEMBERS OR THEIR SPOUSES**

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

24                   **SECTION 7.**

25                   **ADVERSE ACTIONS**

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

- 1      1. Take adverse action against a licensee's compact privilege within that

2      member state; and
- 3      2. Issue subpoenas for both hearings and investigations that require the

4      attendance and testimony of witnesses as well as the production of evidence.

5      Subpoenas issued by a licensing authority in a member state for the

6      attendance and testimony of witnesses or the production of evidence from

7      another member state shall be enforced in the latter state by any court of

8      competent jurisdiction, according to the practice and procedure applicable

9      to subpoenas issued in proceedings pending before that court. The issuing

10     authority shall pay any witness fees, travel expenses, mileage, and other fees

11     required by the service statutes of the state in which the witnesses or

12     evidence are located.
- 13     B. Only the home state shall have the power to take adverse action against a

14     licensee's home state license.
- 15     C. For purposes of taking adverse action, the home state shall give the same priority

16     and effect to reported conduct received from a member state as it would if the

17     conduct had occurred within the home state. In so doing, the home state shall

18     apply its own state laws to determine appropriate action.
- 19     D. The home state shall complete any pending investigations of a licensee who

20     changes home states during the course of the investigations. The home state shall

21     also have authority to take appropriate action and shall promptly report the

22     conclusions of the investigations to the administrator of the data system. The

23     administrator of the data system shall promptly notify the new home state of any

24     adverse actions.
- 25     E. A member state, if otherwise permitted by state law, may recover from the affected

26     licensee the costs of investigations and dispositions of cases resulting from any

27     adverse action taken against that licensee.

#### 4      G.    Joint Investigations:

8        2. Member states shall share any investigative, litigation, or compliance  
9        materials in furtherance of any joint investigation initiated under the  
10      compact.

11 **H. If adverse action is taken by the home state against a licensee's home state**  
12 **resulting in an encumbrance on the home state license, the licensee's compact**  
13 **privilege in all other member states shall be revoked until all encumbrances have**  
14 **been removed from the home state license. All home state disciplinary orders that**  
15 **impose adverse action against a licensee shall include a statement that the**  
16 **licensee's compact privileges are revoked in all member states during the**  
17 **pendency of the order.**

18 I. Once an encumbered license in the home state is restored to an unencumbered  
19 license, as certified by the home state's licensing authority, the licensee must meet  
20 the requirements of Section 4A. of this compact and follow the administrative  
21 requirements to reapply to obtain a compact privilege in any remote state.

22 **J. If a member state takes adverse action, it shall promptly notify the administrator**  
23 **of the data system. The administrator of the data system shall promptly notify the**  
24 **other member states state of any adverse actions.**

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

## SECTION 8.

1      **ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION**

2      **A. The compact member states hereby create and establish a joint government**  
3      **agency whose membership consists of all member states that have enacted the**  
4      **compact known as the Dietitian Licensure Compact Commission. The compact**  
5      **commission is an instrumentality of the compact states acting jointly and not an**  
6      **instrumentality of any one (1) state. The compact commission shall come into**  
7      **existence on or after the effective date of the compact as set forth in Section 12 of**  
8      **this compact.**

9      **B. Membership, Voting, and Meetings.**

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

12     **2. The delegate shall be the primary administrator of the licensing authority or**  
13     **their designee.**

14     **3. The compact commission shall by rule or bylaw establish a term of office**  
15     **for delegates and may by rule or bylaw establish term limits.**

16     **4. The compact commission may recommend removal or suspension of any**  
17     **delegate from office.**

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

20     **6. Each delegate shall be entitled to one (1) vote on all matters before the**  
21     **compact commission requiring a vote by the delegates.**

22     **7. Delegates shall meet and vote by such means as set forth in the bylaws. The**  
23     **bylaws may provide for delegates to meet and vote in-person or by**  
24     **telecommunication, video conference, or other means of communication.**

25     **8. The compact commission shall meet at least once during each calendar**  
26     **year. Additional meetings may be held as set forth in the bylaws. The**  
27     **compact commission may meet in person or by telecommunication, video**

1                   conference, or other means of communication.

2    C. The compact commission shall have the following powers:

- 3    1. Establish the fiscal year of the compact commission;
- 4    2. Establish code of conduct and conflict of interest policies;
- 5    3. Establish and amend rules and bylaws;
- 6    4. Maintain its financial records in accordance with the bylaws;
- 7    5. Meet and take such actions as are consistent with the provisions of this  
compact, the compact commission's rules, and the bylaws;
- 8    6. Initiate and conclude legal proceedings or actions in the name of the  
compact commission, provided that the standing of any licensing authority  
to sue or be sued under applicable law shall not be affected;
- 9    7. Maintain and certify records and information provided to a member state as  
the authenticated business records of the compact commission, and  
designate an agent to do so on the compact commission's behalf;
- 10   8. Purchase and maintain insurance and bonds;
- 11   9. Borrow, accept, or contract for services of personnel, including but not  
limited to employees of a member state;
- 12   10. Conduct an annual financial review;
- 13   11. Hire employees, elect or appoint officers, fix compensation, define duties,  
grant such individuals appropriate authority to carry out the purposes of the  
compact, and establish the compact commission's personnel policies and  
programs relating to conflicts of interest, qualifications of personnel, and  
other related personnel matters;
- 14   12. Assess and collect fees;
- 15   13. Accept any and all appropriate donations, grants of money, other sources of  
revenue, equipment, supplies, materials, services, and gifts, and receive,  
utilize, and dispose of the same; provided that at all times the compact

1                   *commission shall avoid any actual or appearance of impropriety or conflict*  
2                   *of interest;*

3                   *14. Lease, purchase, retain, own, hold, improve, or use any property, real,*  
4                   *personal, or mixed, or any undivided interest therein;*

5                   *15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise*  
6                   *dispose of any property, real, personal, or mixed;*

7                   *16. Establish a budget and make expenditures;*

8                   *17. Borrow money;*

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

13                   *19. Provide and receive information from, and cooperate with, law enforcement*  
14                   *agencies;*

15                   *20. Establish and elect an executive committee, including a chair and a vice*  
16                   *chair;*

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

20                   *22. Perform such other functions as may be necessary or appropriate to achieve*  
21                   *the purposes of this compact.*

22                   **D. The Executive Committee.**

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

26                   *a. Oversee the day-to-day activities of the administration of the compact*  
27                   *including enforcement and compliance with the provisions of the*

1                   compact, its rules and bylaws, and other such duties as deemed  
2                   necessary;

3                   b. Recommend to the compact commission changes to the rules or  
4                   bylaws, changes to this compact legislation, fees charged to compact  
5                   member states, fees charged to licensees, and other fees;

6                   c. Ensure compact administration services are appropriately provided,  
7                   including by contract;

8                   d. Prepare and recommend the budget;

9                   e. Maintain financial records on behalf of the compact commission;

10                   f. Monitor compact compliance of member states and provide  
11                   compliance reports to the compact commission;

12                   g. Establish additional committees as necessary;

13                   h. Exercise the powers and duties of the compact commission during the  
14                   interim between compact commission meetings, except for adopting or  
15                   amending rules, adopting or amending bylaws, and exercising any  
16                   other powers and duties expressly reserved to the compact commission  
17                   by rule or bylaw; and

18                   i. Other duties as provided in the rules or bylaws of the compact  
19                   commission.

20                   2. The executive committee shall be composed of nine (9) members:

21                   a. The chair and vice chair of the compact commission shall be voting  
22                   members of the executive committee;

23                   b. Five (5) voting members from the current membership of the compact  
24                   commission, elected by the compact commission;

25                   c. One (1) ex officio, nonvoting member from a recognized professional  
26                   association representing dietitians; and

27                   d. One (1) ex officio, nonvoting member from a recognized national

### **credentialing organization for dietitians.**

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

**4. The executive committee shall meet at least annually.**

a. Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection F.2. of this section.

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

c. The executive committee may hold a special meeting in accordance with subsection F.1.b. of this section.

14 *E. The compact commission shall adopt and provide to the member states an annual*  
15 *report.*

## 16 *F. Meetings of the Compact Commission.*

1. All meetings shall be open to the public, except that the compact commission may meet in a closed, nonpublic meeting as provided in subsection F.2. of this section.

a. Public notice for all meetings of the full compact commission shall be given in the same manner as required under the rulemaking provisions in Section 10 of this compact, except that the compact commission may hold a special meeting as provided in subsection E 1.b. of this section.

**b. The compact commission may hold a special meeting when it must meet to conduct emergency business by giving twenty-four (24) hours' notice to all member states, on the compact commission's website, and**

1                   other means as provided in the compact commission's rules. The  
2                   compact commission's legal counsel shall certify that the compact  
3                   commission's need to meet qualifies as an emergency.

4                   2. The compact commission or the executive committee or other committees of  
5                   the compact commission may convene in a closed, nonpublic meeting for  
6                   the compact commission or executive committee or other committees of the  
7                   compact commission to receive legal advice or to discuss:

8                   a. Noncompliance of a member state with its obligations under the  
9                   compact;

10                   b. The employment, compensation, discipline, or other matters, practices,  
11                   or procedures related to specific employees;

12                   c. Current or threatened discipline of a licensee by the compact  
13                   commission or by a member state's licensing authority;

14                   d. Current, threatened, or reasonably anticipated litigation;

15                   e. Negotiation of contracts for the purchase, lease, or sale of goods,  
16                   services, or real estate;

17                   f. Accusing any person of a crime or formally censuring any person;

18                   g. Trade secrets or commercial or financial information that is privileged  
19                   or confidential;

20                   h. Information of a personal nature where disclosure would constitute a  
21                   clearly unwarranted invasion of personal privacy;

22                   i. Investigative records compiled for law enforcement purposes;

23                   j. Information related to any investigative reports prepared by or on  
24                   behalf of or for use of the compact commission or other committee  
25                   charged with responsibility of investigation or determination of  
26                   compliance issues pursuant to the compact;

27                   k. Matters specifically exempted from disclosure by federal or member

1                   state law; or

2                   1. Other matters as specified in the rules of the compact commission.

3                   3. If a meeting, or portion of a meeting, is closed, the presiding officer shall  
4                   state that the meeting will be closed and reference each relevant exempting  
5                   provision, and such reference shall be recorded in the minutes.

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

14                   G. Financing of the Compact Commission.

15                   1. The compact commission shall pay, or provide for the payment of, the  
16                   reasonable expenses of its establishment, organization, and ongoing  
17                   activities.

18                   2. The compact commission may accept any and all appropriate revenue  
19                   sources as provided in subsection C.13. of this section.

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

1       4. *The compact commission shall not incur obligations of any kind prior to*  
2       *securing the funds adequate to meet the same; nor shall the compact*  
3       *commission pledge the credit of any of the member states, except by and*  
4       *with the authority of the member state.*

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

13       H. *Qualified Immunity, Defense, and Indemnification.*

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

27       2. *The compact commission shall defend any member, officer, executive*

1                   director, employee, and representative of the compact commission in any  
2                   civil action seeking to impose liability arising out of any actual or alleged  
3                   act, error, or omission that occurred within the scope of compact  
4                   commission employment, duties, or responsibilities, or as determined by the  
5                   compact commission that the person against whom the claim is made had a  
6                   reasonable basis for believing occurred within the scope of compact  
7                   commission employment, duties, or responsibilities; provided that nothing  
8                   herein shall be construed to prohibit that person from retaining their own  
9                   counsel at their own expense; and provided further, that the actual or  
10                   alleged act, error, or omission did not result from that person's intentional  
11                   or willful or wanton misconduct.

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

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

25                   5. Nothing in this compact shall be interpreted to waive or otherwise abrogate  
26                   a member state's state action immunity or state action affirmative defense  
27                   with respect to antitrust claims under the Sherman Act, Clayton Act, or any

1                   other state or federal antitrust or anticompetitive law or regulation.

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

4                   SECTION 9.

5                   DATA SYSTEM

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

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

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

14                   1. Identifying information;

15                   2. Licensure data;

16                   3. Adverse actions against a license or compact privilege and information  
17                   related thereto;

18                   4. Nonconfidential information related to alternative program participation,  
19                   the beginning and ending dates of such participation, and other information  
20                   related to such participation not made confidential under member state law;

21                   5. Any denial of application for licensure, and the reasons for such denial;

22                   6. The presence of current significant investigative information; and

23                   7. Other information that may facilitate the administration of this compact or  
24                   the protection of the public, as determined by the rules of the compact  
25                   commission.

26                   D. The records and information provided to a member state pursuant to this compact  
27                   or through the data system, when certified by the compact commission or an

1 agent thereof, shall constitute the authenticated business records of the compact  
2 commission, and shall be entitled to any associated hearsay exception in any  
3 relevant judicial, quasi-judicial, or administrative proceedings in a member state.

4 E. Current significant investigative information pertaining to a licensee in any  
5 member state will only be available to other member states.

6 F. It is the responsibility of the member states to report any adverse action against a  
7 licensee and to monitor the data system to determine whether any adverse action  
8 has been taken against a licensee. Adverse action information pertaining to a  
9 licensee in any member state will be available to any other member state.

10 G. Member states contributing information to the data system may designate  
11 information that may not be shared with the public without the express  
12 permission of the contributing state.

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

16 SECTION 10.

17 RULEMAKING

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

25 B. The rules of the compact commission shall have the force of law in each member  
26 state, provided however that where the rules conflict with the laws or regulations  
27 of a member state that relate to the procedures, actions, and processes a licensed

1        dietitian is permitted to undertake in that state and the circumstances under  
2        which they may do so, as held by a court of competent jurisdiction, the rules of  
3        the compact commission shall be ineffective in that state to the extent of the  
4        conflict.

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

9        D. If a majority of the legislatures of the member states rejects a rule or portion of a  
10        rule, by enactment of a statute or resolution in the same manner used to adopt the  
11        compact within four (4) years of the date of adoption of the rule, then such rule  
12        shall have no further force and effect in any member state.

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

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

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

- 22        1. On the website of the compact commission or other publicly accessible  
23        platform;
- 24        2. To persons who have requested notice of the compact commission's notices  
25        of proposed rulemaking; and
- 26        3. In such other ways as the compact commission may by rule specify.

27        H. The notice of proposed rulemaking shall include:

1. The time, date, and location of the public hearing at which the compact commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the compact commission will consider and vote on the proposed rule;
2. If the hearing is held via telecommunication, video conference, or other means of communication, the compact commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;
3. The text of the proposed rule and the reason therefore;
4. A request for comments on the proposed rule from any interested person;  
and
5. The manner in which interested persons may submit written comments.

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

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

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

1. The compact commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.
2. The compact commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.
3. The compact commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection 10.L. of this section, the effective date of the rule shall be no sooner than thirty (30) days

after issuing the notice that it adopted or amended the rule.

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

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of compact commission or member state funds;
3. Meet a deadline for the promulgation of a rule that is established by federal law or rule; or
4. Protect public health and safety.

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

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

## SECTION 11.

## ***OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT***

1    **A. Oversight.**

2    **1. The executive and judicial branches of state government in each member**  
3    **state shall enforce this compact and take all actions necessary and**  
4    **appropriate to implement this compact.**

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

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

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

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

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

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

9           D. *Termination of membership in the compact shall be imposed only after all other*  
10           *means of securing compliance have been exhausted. Notice of intent to suspend*  
11           *or terminate shall be given by the compact commission to the Governor, the*  
12           *majority and minority leaders of the defaulting state's legislature, the defaulting*  
13           *state's licensing authority, and each of the member states' licensing authority.*

14           E. *A state that has been terminated is responsible for all assessments, obligations,*  
15           *and liabilities incurred through the effective date of termination, including*  
16           *obligations that extend beyond the effective date of termination.*

17           F. *Upon the termination of a state's membership from this compact, that state shall*  
18           *immediately provide notice to all licensees within that state of such termination.*  
19           *The terminated state shall continue to recognize all compact privileges granted*  
20           *pursuant to this compact for a minimum of six (6) months after the date of said*  
21           *notice of termination.*

22           G. *The compact commission shall not bear any costs related to a state that is found*  
23           *to be in default or that has been terminated from the compact, unless agreed*  
24           *upon in writing between the compact commission and the defaulting state.*

25           H. *The defaulting state may appeal the action of the compact commission by*  
26           *petitioning the United States District Court for the District of Columbia or the*  
27           *federal district where the compact commission has its principal offices. The*

1        prevailing party shall be awarded all costs of such litigation, including  
2        reasonable attorney's fees.

3        **I. Dispute Resolution.**

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

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

9        **J. Enforcement.**

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

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

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

## SECTION 12.

**EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

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

1. On or after the effective date of the compact, the compact commission shall convene and review the enactment of each of the first seven (7) member states ("charter member states") to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

a. A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in Section 11 of this compact.

**b. If any member state is later found to be in default, or is terminated, or withdraws from the compact, the compact commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven (7).**

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

3. All actions taken for the benefit of the compact commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the compact commission coming into existence shall be considered to be actions of the compact commission

1                   unless specifically repudiated by the compact commission.

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

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

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

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

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

22                   C. Nothing contained in this compact shall be construed to invalidate or prevent any  
23                   licensure agreement or other cooperative arrangement between a member state  
24                   and a nonmember state that does not conflict with the provisions of this compact.

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

### **SECTION 13.**

## **CONSTRUCTION AND SEVERABILITY**

- A. This compact and the compact commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the compact commission's rulemaking authority solely for those purposes.
- B. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.
- C. Notwithstanding subsection B. of this section, the compact commission may deny a state's participation in the compact or, in accordance with the requirements of Section 11.B. of this compact, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

## **SECTION 14.**

## **CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

26 A. Nothing herein shall prevent or inhibit the enforcement of any other law of a  
27 member state that is not inconsistent with the compact.

- 1     *B. Any laws, statutes, regulations, or other legal requirements in a member state in*
- 2     *conflict with the compact are superseded to the extent of the conflict.*
- 3     *C. All permissible agreements between the compact commission and the member*
- 4     *states are binding in accordance with their terms.*