*Session of 2025*

# HOUSE BILL No. 2070

By Committee on Commerce, Labor and Economic Development

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

1-23

AN ACT concerning health and healthcare; relating to dietitians; enacting the dietitian compact to provide interstate practice privileges.

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

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

SECTION 1—PURPOSE

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

(a) Increase public access to dietetics services;

(b) provide opportunities for interstate practice by licensed dietitians who meet uniform requirements;

(c) eliminate the necessity for licenses in multiple states;

(d) reduce administrative burden on member states and licensees;

(e) enhance the states' ability to protect the public's health and safety;

(f) encourage the cooperation of member states in regulating multistate practice of licensed dietitians;

(g) support relocating active military members and their spouses;

(h) enhance the exchange of licensure, investigative and disciplinary information among member states; and

(i) vest all member states with the authority to hold a licensed dietitian accountable for meeting all state practice laws in the state where the patient is located at the time care is rendered.

SECTION 2—DEFINITIONS

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

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

(b) "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including

members of the national guard and reserve.

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

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

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

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

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

(h) "Compact commission" means the governmental 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, and which shall operate as an instrumentality of the member states.

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

(j) "Current significant investigative information" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) "Rule" means a regulation promulgated by the compact commission that has the 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.

(bb) "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 shall currently:

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

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

(b) A member state shall:

(1) Participate fully in the compact commission's data system, including using the unique identifier as defined in 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 shall fully implement a criminal history record information requirement, within a time frame established by rule, that includes receiving the results of the federal bureau of investigation record search and shall use those results in determining compact privilege eligibility; and

(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 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. 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 requirements.

SECTION 4—COMPACT PRIVILEGE

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

(1) Satisfy one of the following:

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

(B) complete all of the following:

(i) An education program that is either:

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

(1) ACEND; or

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

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

(1) ACEND; or

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

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

(a) ACEND; or

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

(iii) successful completion of either:

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

(b) a national credentialing examination for dietitians approved by the compact commission by rule, such completion being not more than five 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;

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

(5) meet any jurisprudence requirements established by the remote state where 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 30 days from the date the action is taken. The compact privilege shall be 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 shall comply with the requirements of subsection (a) to maintain the compact privilege in the remote state.

(b) The compact privilege shall be 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 shall comply with the requirements of subsection (a) to maintain the compact privilege in the remote state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6—ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

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

SECTION 7—ADVERSE ACTIONS

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

law, to:

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

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

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

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

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

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

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

(g) Joint investigations.

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

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

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

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

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

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

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

SECTION 8—ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION

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

(b) Membership, voting and meetings.

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

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

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

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

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

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

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

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

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

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

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

(3) establish and amend rules and bylaws;

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

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

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

(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;

(8) purchase and maintain insurance and bonds;

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

(10) conduct an annual financial review;

(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;

(12) assess and collect fees;

(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 except that at all times the compact commission shall avoid any actual or appearance of impropriety or conflict of interest;

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

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

(16) establish a budget and make expenditures;

(17) borrow money;

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

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

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

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

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

(d) The executive committee.

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

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

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

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

(D) prepare and recommend the budget;

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

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

(G) establish additional committees as necessary;

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

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

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

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

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

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

(D) one exofficio, 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).

(B) The executive committee shall give 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).

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

(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).

(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, except that the compact commission may hold a special meeting as provided in subsection (f)(1)(B).

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

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

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

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

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

(D) current, threatened or reasonably anticipated litigation;

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

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

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

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

(I) investigative records compiled for law enforcement purposes;

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

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

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

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

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

(g) Financing of the compact commission.

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

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

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

(4) The compact commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the compact commission pledge the credit of any of the member states except

by and with the authority of the member state.

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

(h) Qualified immunity, defense and indemnification.

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

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

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

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

(4) Nothing in this compact 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 antitrust act of 1890, the Clayton act 15 U.S.C. §§ 12-27 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 SYSTEMS

(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 of the compact commission.

(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 law;

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

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

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

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

(e) Current significant investigative information pertaining to a

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

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

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

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

SECTION 10—RULEMAKING

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

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

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

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

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

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

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

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

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

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

(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 therefor;

(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 shall 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 if 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 (l), the effective date of the rule shall be not sooner than 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 24 hours' notice, with an opportunity to comment, except that the usual rulemaking procedures provided in the compact and this section shall be retroactively applied to the rule as soon as reasonably possible but not later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that shall 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 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 shall 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

(a) Oversight.

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

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

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

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

(b) Default, technical assistance and termination.

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

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

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

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

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

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

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

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

litigation, including reasonable attorney fees.

(i) Dispute resolution.

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

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

(j) Enforcement.

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

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

(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 fewer than seven.

(2) Member states enacting the compact subsequent to the seven initial charter member states shall be subject to the process set forth in section 8(c)(21) 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 unless specifically repudiated by the compact commission.

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

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

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

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

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

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

(d) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is 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), the compact commission may deny a state's participation in the compact or, in accordance with the requirements of section 11(b), 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. 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

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

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

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

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