

House File 2375 - Introduced

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A BILL FOR

1 An Act enacting the dietitian licensure compact.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147I.1 Dietitian licensure compact.

- 2 1. *Purpose.* The purpose of this compact is to facilitate
3 interstate practice of dietetics with the goal of improving
4 public access to dietetics services. This compact preserves
5 the regulatory authority of states to protect public health and
6 safety through the current system of state licensure, while
7 also providing for licensure portability through a compact
8 privilege granted to qualifying professionals. This compact is
9 designed to achieve all of the following objectives:
- 10 a. Increase public access to dietetics services.
11 b. Provide opportunities for interstate practice by licensed
12 dietitians who meet uniform requirements.
13 c. Eliminate the necessity for licenses in multiple states.
14 d. Reduce administrative burden on member states and
15 licensees.
16 e. Enhance the states' ability to protect the public's
17 health and safety.
18 f. Encourage the cooperation of member states in regulating
19 multistate practice of licensed dietitians.
20 g. Support relocating active military members and their
21 spouses.
22 h. Enhance the exchange of licensure, investigative, and
23 disciplinary information among member states.
24 i. Vest all member states with the authority to hold a
25 licensed dietitian accountable for meeting all state practice
26 laws in the state in which the patient is located at the time
27 care is rendered.
- 28 2. *Definitions.* As used in this compact, and except as
29 otherwise provided, the following definitions shall apply:
- 30 a. "ACEND" means the accreditation council for education in
31 nutrition and dietetics or its successor organization.
32 b. "Active military member" means any individual with
33 full-time duty status in the active armed forces of the United
34 States, including members of the national guard and reserve.
35 c. "Adverse action" means any administrative, civil,

1 equitable, or criminal action permitted by a state's laws which
2 is imposed by a licensing authority or other authority against
3 a licensee, including actions against an individual's license
4 or compact privilege such as revocation, suspension, probation,
5 monitoring of the licensee, limitation on the licensee's
6 practice, or any other encumbrance on licensure affecting a
7 licensee's authorization to practice, including issuance of a
8 cease and desist action.

9 *d. "Alternative program"* means a nondisciplinary monitoring
10 or practice remediation process approved by a licensing
11 authority.

12 *e. "CDR"* means the commission on dietetic registration or
13 its successor organization.

14 *f. "Charter member state"* means any member state which
15 enacted this compact by law before the effective date specified
16 in subsection 12.

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

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

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

29 *j. "Current significant investigative information"* means all
30 of the following:

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

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

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

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

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

14 *n. "Executive committee"* means a group of delegates elected
15 or appointed to act on behalf of, and within the powers granted
16 to them by, this compact, and the compact commission.

17 *o. "Home state"* means the member state that is the
18 licensee's primary state of residence or that has been
19 designated pursuant to subsection 6.

20 *p. "Investigative information"* means information, records,
21 and documents received or generated by a licensing authority
22 pursuant to an investigation.

23 *q. "Jurisprudence requirement"* means an assessment of an
24 individual's knowledge of the state laws and regulations
25 governing the practice of dietetics in such state.

26 *r. "License"* means an authorization from a member state to
27 do either of the following:

28 (1) Engage in the practice of dietetics, including medical
29 nutrition therapy.

30 (2) Use the title dietitian, licensed dietitian, licensed
31 dietitian nutritionist, certified dietitian, or other title
32 describing a substantially similar practitioner as the compact
33 commission may further define by rule.

34 *s. "Licensee" or "licensed dietitian"* means an individual
35 who currently holds a license and who meets all of the

1 requirements outlined in subsection 4.

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

5 *u. "Member state"* means a state that has enacted the
6 compact.

7 *v. "Practice of dietetics"* means the synthesis and
8 application of dietetics, primarily for the provision of
9 nutrition care services, including medical nutrition therapy,
10 in person or via telehealth, to prevent, manage, or treat
11 diseases or medical conditions and promote wellness.

12 *w. "Registered dietitian"* means a person who meets all of
13 the following requirements:

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

16 (2) Is credentialed by CDR as a registered dietitian or a
17 registered dietitian nutritionist.

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

21 *x. "Remote state"* means a member state other than the home
22 state, where a licensee is exercising or seeking to exercise a
23 compact privilege.

24 *y. "Rule"* means a regulation promulgated by the compact
25 commission that has the force of law.

26 *z. "Single state license"* means a license issued by a member
27 state within the issuing state and does not include a compact
28 privilege in any other member state.

29 *aa. "State"* means any state, commonwealth, district, or
30 territory of the United States of America.

31 *ab. "Unencumbered license"* means a license that authorizes
32 a licensee to engage in the full and unrestricted practice of
33 dietetics.

34 3. *State participation in the compact.*

35 *a. To participate in the compact, a state must currently do*

1 all of the following:

2 (1) License and regulate the practice of dietetics.

3 (2) Have a mechanism in place for receiving and
4 investigating complaints about licensees.

5 *b.* A member state shall do all of the following:

6 (1) Participate fully in the compact commission's data
7 system, including using the unique identifier as defined in
8 rules.

9 (2) Notify the compact commission, in compliance with the
10 terms of the compact and rules, of any adverse action or the
11 availability of current significant investigative information
12 regarding a licensee.

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

21 (a) A member state must fully implement a criminal history
22 record information requirement, within a time frame established
23 by rule, which includes receiving the results of the federal
24 bureau of investigation record search and shall use those
25 results in determining compact privilege eligibility.

26 (b) Communication between a member state and the compact
27 commission or among member states regarding the verification
28 of eligibility for a compact privilege shall not include any
29 information received from the federal bureau of investigation
30 relating to a federal criminal history record information check
31 performed by a member state.

32 (4) Comply with and enforce the rules of the compact
33 commission.

34 (5) Require an applicant for a compact privilege to obtain
35 or retain a license in the licensee's home state and meet

1 the home state's qualifications for licensure or renewal of
2 licensure, as well as all other applicable state laws.

3 (6) Recognize a compact privilege granted to a licensee
4 who meets all of the requirements outlined in subsection 4 in
5 accordance with the terms of the compact and rules.

6 c. Member states may set and collect a fee for granting a
7 compact privilege.

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

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

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

21 4. *Compact privilege.*

22 a. To exercise the compact privilege under the terms and
23 provisions of the compact, the licensee shall do all of the
24 following:

25 (1) Satisfy one of the following:

26 (a) Hold a valid current registration that gives the
27 applicant the right to use the term registered dietitian.

28 (b) Complete all of the following:

29 (i) An education program that is either of the following:

30 (A) A master's degree or doctoral degree that is
31 programmatically accredited by ACEND or a dietetics accrediting
32 agency recognized by the United States department of education,
33 which the compact commission may by rule determine, and from a
34 college or university accredited at the time of graduation by
35 the appropriate regional accrediting agency recognized by the

1 council on higher education accreditation and the United States
2 department of education.

3 (B) An academic degree from a college or university in
4 a foreign country equivalent to the degree described in
5 subparagraph part (A) that is programmatically accredited by
6 ACEND or a dietetics accrediting agency recognized by the
7 United States department of education, which the compact
8 commission may by rule determine.

9 (ii) A planned, documented, supervised practice experience
10 in dietetics that is programmatically accredited by ACEND or a
11 dietetics accrediting agency recognized by the United States
12 department of education which the compact commission may by
13 rule determine and which involves at least one thousand hours
14 of practice experience under the supervision of a registered
15 dietitian or a licensed dietitian.

16 (iii) Successful completion of either the registration
17 examination for dietitians administered by CDR or a national
18 credentialing examination for dietitians approved by the
19 compact commission by rule; such completion being no more than
20 five years prior to the date of the licensee's application for
21 initial licensure and accompanied by a period of continuous
22 licensure thereafter, all of which may be further governed by
23 the rules of the compact commission.

24 (2) Hold an unencumbered license in the home state.

25 (3) Notify the compact commission that the licensee is
26 seeking a compact privilege within a remote state.

27 (4) Pay any applicable fees, including any state fee, for
28 the compact privilege.

29 (5) Meet any jurisprudence requirements established by
30 the remote state in which the licensee is seeking a compact
31 privilege.

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

35 *b.* The compact privilege is valid until the expiration date

1 of the home state license. To maintain a compact privilege,
2 renewal of the compact privilege shall be congruent with the
3 renewal of the home state license as the compact commission may
4 define by rule. The licensee must comply with the requirements
5 of paragraph "a" to maintain the compact privilege in the remote
6 state.

7 c. A licensee exercising a compact privilege shall adhere to
8 the laws and regulations of the remote state. A licensee shall
9 be responsible for obtaining education on, and complying with,
10 any and all state laws relating to the practice of dietetics in
11 such remote state.

12 d. Notwithstanding anything to the contrary provided in this
13 compact or state law, a licensee exercising a compact privilege
14 shall not be required to complete continuing education
15 requirements required by a remote state. A licensee exercising
16 a compact privilege is only required to meet any continuing
17 education requirements as required by the home state.

18 5. *Obtaining a new home state license based on a compact*
19 *privilege.*

20 a. A licensee may hold a home state license, which allows
21 for a compact privilege in other member states, in only one
22 member state at a time.

23 b. If a licensee changes home state by moving between two
24 member states, the following shall occur:

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

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

34 (a) Federal bureau of investigation fingerprint-based
35 criminal history record information check.

1 (b) Any other criminal history record information required
2 by the new home state.

3 (c) Any jurisprudence requirements of the new home state.

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

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

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

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

18 d. Nothing in this compact shall interfere with a licensee's
19 ability to hold a single state license in multiple states;
20 however, for the purposes of this compact, a licensee shall
21 have only one home state license.

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

25 6. *Active military members or their spouses.* An active
26 military member, or the active military member's spouse, shall
27 designate a home state where the individual has a current
28 license in good standing. The individual may retain the home
29 state designation during the period the service member is on
30 active duty.

31 7. *Adverse actions.*

32 a. In addition to the other powers conferred by state law,
33 a remote state shall have the authority, in accordance with
34 existing state due process law, to do all of the following:

35 (1) Take adverse action against a licensee's compact

1 privilege within that member state.

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

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

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

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

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

32 *f.* A member state may take adverse action based on the
33 factual findings of another remote state, provided that the
34 member state follows its own procedures for taking the adverse
35 action.

1 *g.* Joint investigations.

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

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

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

17 *i.* Once an encumbered license in the home state is restored
18 to an unencumbered license, as certified by the home state's
19 licensing authority, the licensee must meet the requirements
20 of subsection 4, paragraph "a", and follow the administrative
21 requirements to reapply to obtain a compact privilege in any
22 remote state.

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

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

30 8. *Establishment of the dietitian licensure compact*
31 *commission.*

32 *a.* The compact member states hereby create and establish a
33 joint government agency whose membership consists of all member
34 states that have enacted the compact known as the dietitian
35 licensure compact commission. The compact commission is an

1 instrumentality of the compact states acting jointly and not
2 an instrumentality of any one state. The compact commission
3 shall come into existence on or after the effective date of the
4 compact as set forth in subsection 12.

5 *b. Membership, voting, and meetings.*

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

8 (2) The delegate shall be the primary administrator of the
9 licensing authority or the administrator's designee.

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

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

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

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

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

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

30 *c. The compact commission shall have all of the following*
31 *powers:*

32 (1) Establish the fiscal year of the compact commission.

33 (2) Establish code of conduct and conflict of interest
34 policies.

35 (3) Establish and amend rules and bylaws.

- 1 (4) Maintain financial records in accordance with the
2 bylaws.
- 3 (5) Meet and take such actions as are consistent with the
4 provisions of this compact, the compact commission's rules, and
5 the bylaws.
- 6 (6) Initiate and conclude legal proceedings or actions in
7 the name of the compact commission, provided that the standing
8 of any licensing authority to sue or be sued under applicable
9 law shall not be affected.
- 10 (7) Maintain and certify records and information provided
11 to a member state as the authenticated business records of the
12 compact commission, and designate an agent to do so on the
13 compact commission's behalf.
- 14 (8) Purchase and maintain insurance and bonds.
- 15 (9) Borrow, accept, or contract for services of personnel,
16 including but not limited to employees of a member state.
- 17 (10) Conduct an annual financial review.
- 18 (11) Hire employees, elect or appoint officers, fix
19 compensation, define duties, grant such individuals appropriate
20 authority to carry out the purposes of the compact, and
21 establish the compact commission's personnel policies and
22 programs relating to conflicts of interest, qualifications of
23 personnel, and other related personnel matters.
- 24 (12) Assess and collect fees.
- 25 (13) Accept any and all appropriate donations, grants
26 of money, other sources of revenue, equipment, supplies,
27 materials, services, and gifts, and receive, utilize, and
28 dispose of the same, provided that at all times the compact
29 commission shall avoid any actual or appearance of impropriety
30 or conflict of interest.
- 31 (14) Lease, purchase, retain, own, hold, improve, or use any
32 property, real, personal, or mixed, or any undivided interest
33 therein.
- 34 (15) Sell, convey, mortgage, pledge, lease, exchange,
35 abandon, or otherwise dispose of any property real, personal,

1 or mixed.

2 (16) Establish a budget and make expenditures.

3 (17) Borrow money.

4 (18) Appoint committees, including standing committees,
5 composed of members, state regulators, state legislators or
6 their representatives, and consumer representatives, and such
7 other interested persons as may be designated in this compact
8 or the bylaws.

9 (19) Provide and receive information from, and cooperate
10 with, law enforcement agencies.

11 (20) Establish and elect an executive committee, including
12 a chair and a vice chair.

13 (21) Determine whether a state's adopted language is
14 materially different from the model compact language such that
15 the state would not qualify for participation in the compact.

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

18 *d.* The executive committee.

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

23 (a) Oversee the day-to-day activities of the administration
24 of the compact including enforcement and compliance with the
25 provisions of the compact, rules, and bylaws, and other such
26 duties as deemed necessary.

27 (b) Recommend to the compact commission changes to the rules
28 or bylaws, changes to this compact legislation, fees charged
29 to compact member states, fees charged to licensees, and other
30 fees.

31 (c) Ensure compact administration services are
32 appropriately provided, including by contract.

33 (d) Prepare and recommend the budget.

34 (e) Maintain financial records on behalf of the compact
35 commission.

1 (f) Monitor compact compliance of member states and provide
2 compliance reports to the compact commission.

3 (g) Establish additional committees as necessary.

4 (h) Exercise the powers and duties of the compact commission
5 during the interim between compact commission meetings, except
6 for adopting or amending rules, adopting or amending bylaws,
7 and exercising any other powers and duties expressly reserved
8 to the compact commission by rule or bylaw.

9 (i) Other duties as provided in the rules or bylaws of the
10 compact commission.

11 (2) The executive committee shall be composed of the
12 following nine members:

13 (a) The chair and vice chair of the compact commission shall
14 be voting members of the executive committee.

15 (b) Five voting members from the current membership of the
16 compact commission, elected by the compact commission.

17 (c) One ex officio, nonvoting member from a recognized
18 professional association representing dietitians.

19 (d) One ex officio, nonvoting member from a recognized
20 national credentialing organization for dietitians.

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

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

25 (a) Executive committee meetings shall be open to the
26 public, except that the executive committee may meet in
27 a closed, nonpublic meeting as provided in paragraph "f",
28 subparagraph (2).

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

33 (c) The executive committee may hold a special meeting in
34 accordance with paragraph "f", subparagraph (1), subparagraph
35 division (b).

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

3 f. Meetings of the compact commission.

4 (1) All meetings shall be open to the public, except that
5 the compact commission may meet in a closed, nonpublic meeting
6 as provided in subparagraph (2).

7 (a) Public notice for all meetings of the full compact
8 commission shall be given in the same manner as required under
9 the rulemaking provisions in subsection 10, except that the
10 compact commission may hold a special meeting as provided in
11 subparagraph division (b).

12 (b) The compact commission may hold a special meeting
13 when it must meet to conduct emergency business by giving
14 twenty-four hours' notice to all member states, on the compact
15 commission's internet site, and other means as provided in the
16 compact commission's rules. The compact commission's legal
17 counsel shall certify that the compact commission's need to
18 meet qualifies as an emergency.

19 (2) The compact commission or the executive committee
20 or other committees of the compact commission may convene
21 in a closed, nonpublic meeting for the compact commission
22 or executive committee or other committees of the compact
23 commission to receive legal advice or to discuss any of the
24 following:

25 (a) Noncompliance of a member state with the member state's
26 obligations under the compact.

27 (b) The employment, compensation, discipline, or other
28 matters, practices, or procedures related to specific
29 employees.

30 (c) Current or threatened discipline of a licensee by the
31 compact commission or by a member state's licensing authority.

32 (d) Current, threatened, or reasonably anticipated
33 litigation.

34 (e) Negotiation of contracts for the purchase, lease, or
35 sale of goods, services, or real estate.

1 (f) Accusing any person of a crime or formally censuring any
2 person.

3 (g) Trade secrets or commercial or financial information
4 that is privileged or confidential.

5 (h) Information of a personal nature where disclosure would
6 constitute a clearly unwarranted invasion of personal privacy.

7 (i) Investigative records compiled for law enforcement
8 purposes.

9 (j) Information related to any investigative reports
10 prepared by or on behalf of or for use of the compact
11 commission or other committee charged with responsibility of
12 investigation or determination of compliance issues pursuant
13 to the compact.

14 (k) Matters specifically exempted from disclosure by
15 federal or member state law.

16 (l) Other matters as specified in the rules of the compact
17 commission.

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

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

31 *g.* Financing the compact commission.

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

35 (2) The compact commission may accept any and all

1 appropriate revenue sources as provided in paragraph "c",
2 subparagraph (13).

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

13 (4) The compact commission shall not incur obligations of
14 any kind prior to securing the funds adequate to meet the same,
15 nor shall the compact commission pledge the credit of any of
16 the member states, except by and with the authority of the
17 member state.

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

27 *h. Qualified immunity, defense, and indemnification.*

28 (1) The members, officers, executive director, employees,
29 and representatives of the compact commission shall be immune
30 from suit and liability, both personally and in their official
31 capacities, for any claim for damage to or loss of property or
32 personal injury or other civil liability caused by or arising
33 out of any actual or alleged act, error, or omission that
34 occurred, or that the person against whom the claim is made
35 had a reasonable basis for believing occurred within the scope

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

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

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

33 (4) Nothing herein shall be construed as a limitation on
34 the liability of any licensee for professional malpractice
35 or misconduct, which shall be governed solely by any other

1 applicable state laws.

2 (5) Nothing in this compact shall be interpreted to waive
3 or otherwise abrogate a member state's state action immunity
4 or state action affirmative defense with respect to antitrust
5 claims under the federal Sherman Act, federal Clayton Act, or
6 any other state or federal antitrust or anticompetitive law or
7 regulation.

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

11 9. *Data system.*

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

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

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

23 (1) Identifying information.

24 (2) Licensure data.

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

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

31 (5) Any denial of application for licensure, and the reason
32 for such denial.

33 (6) The presence of current significant investigative
34 information.

35 (7) Other information that may facilitate the

1 administration of this compact or the protection of the public,
2 as determined by the rules of the compact commission.

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

10 *e.* Current significant investigative information pertaining
11 to a licensee in any member state will only be available to
12 other member states.

13 *f.* It is the responsibility of the member states to report
14 any adverse action against a licensee and to monitor the data
15 system to determine whether any adverse action has been taken
16 against a licensee. Adverse action information pertaining to
17 a licensee in any member state will be available to any other
18 member state.

19 *g.* Member states contributing information to the data
20 system may designate information that may not be shared with
21 the public without the express permission of the contributing
22 state.

23 *h.* Any information submitted to the data system that is
24 subsequently expunged pursuant to federal law or the laws of
25 the member state contributing the information shall be removed
26 from the data system.

27 10. *Rulemaking.*

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

1 standard of review.

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

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

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

22 *e.* Rules shall be adopted at a regular or special meeting of
23 the compact commission.

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

28 *g.* Prior to adoption of a proposed rule by the compact
29 commission, and at least thirty days in advance of the meeting
30 at which the compact commission will hold a public hearing
31 on the proposed rule, the compact commission shall provide a
32 notice of proposed rulemaking as follows:

33 (1) On the internet site of the compact commission or other
34 publicly accessible platform.

35 (2) To persons who have requested notice of the compact

1 commission's notices of proposed rulemaking.

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

4 *h.* The notice of proposed rulemaking shall include all of
5 the following:

6 (1) The time, date, and location of the public hearing at
7 which the compact commission will hear public comments on the
8 proposed rule and, if different, the time, date, and location
9 of the meeting where the compact commission will consider and
10 vote on the proposed rule.

11 (2) If the hearing is held via telecommunication, video
12 conference, or other means of communication, the compact
13 commission shall include the mechanism for access to the
14 hearing in the notice of proposed rulemaking.

15 (3) The text of the proposed rule and the reason therefore.

16 (4) A request for comments on the proposed rule from any
17 interested person.

18 (5) The manner in which interested persons may submit
19 written comments.

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

24 *j.* Nothing in this subsection shall be construed as
25 requiring a separate hearing on each rule. Rules may be
26 grouped for the convenience of the compact commission at
27 hearings required by this section.

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

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

34 (2) The compact commission shall provide an explanation of
35 the reasons for substantive changes made to the proposed rule

1 as well as reasons for substantive changes not made that were
2 recommended by commenters.

3 (3) The compact commission shall determine a reasonable
4 effective date for the rule. Except for an emergency as
5 provided in paragraph "1", the effective date of the rule shall
6 be no sooner than thirty days after issuing the notice that it
7 adopted or amended the rule.

8 1. Upon determination that an emergency exists, the
9 compact commission may consider and adopt an emergency rule
10 with twenty-four hours' notice, with opportunity to comment,
11 provided that the usual rulemaking procedures provided in the
12 compact and in this subsection shall be retroactively applied
13 to the rule as soon as reasonably possible, in no event later
14 than ninety days after the effective date of the rule. For the
15 purposes of this provision, an emergency rule is one that must
16 be adopted immediately in order to do any of the following:

17 (1) Meet an imminent threat to public health, safety, or
18 welfare.

19 (2) Prevent a loss of compact commission or member state
20 funds.

21 (3) Meet a deadline for the promulgation of a rule that is
22 established by federal law or rule.

23 (4) Protect public health and safety.

24 m. The compact commission or an authorized committee of
25 the compact commission may direct revision to a previously
26 adopted rule for purposes of correcting typographical errors,
27 errors in format, errors in consistency, or grammatical
28 errors. Public notice of any revision shall be posted on the
29 internet site of the compact commission. The revision shall
30 be subject to challenge by any person for a period of thirty
31 days after posting. The revision may be challenged only on
32 grounds that the revision results in a material change to a
33 rule. A challenge shall be made in writing and delivered to
34 the compact commission prior to the end of the notice period.
35 If no challenge is made, the revision will take effect without

1 further action. If the revision is challenged, the revision
2 may not take effect without the approval of the compact
3 commission.

4 *n.* No member state's rulemaking requirements shall apply
5 under this compact.

6 11. *Oversight, dispute resolution, and enforcement.*

7 *a.* Oversight.

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

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

22 (3) The compact commission shall be entitled to receive
23 service of process in any proceeding regarding the enforcement
24 or interpretation of the compact and shall have standing to
25 intervene in such a proceeding for all purposes. Failure to
26 provide the compact commission service of process shall render
27 a judgment or order void as to the compact commission, this
28 compact, or promulgated rules.

29 *b.* Default, technical assistance, and termination.

30 (1) If the compact commission determines that a member
31 state has defaulted in the performance of its obligations or
32 responsibilities under this compact or the promulgated rules,
33 the compact commission shall provide written notice to the
34 defaulting state. The notice of default shall describe the
35 default, the proposed means of curing the default, and any

1 other action that the compact commission may take and shall
2 offer training and specific technical assistance regarding the
3 default.

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

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

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

21 *e.* A state that has been terminated is responsible for all
22 assessments, obligations, and liabilities incurred through
23 the effective date of termination, including obligations that
24 extend beyond the effective date of termination.

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

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

35 *h.* The defaulting state may appeal the action of the compact

1 commission by petitioning the United States district court for
2 the District of Columbia or the federal district where the
3 compact commission has its principal offices. The prevailing
4 party shall be awarded all costs of such litigation, including
5 reasonable attorney fees.

6 *i.* Dispute resolution.

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

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

14 *j.* Enforcement.

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

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

1 reasonable attorney fees.

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

4 12. *Effective date, withdrawal, and amendment.*

5 a. The compact shall come into effect on the date on which
6 the compact statute is enacted into law in the seventh member
7 state.

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

13 (a) A charter member state whose enactment is found to be
14 materially different from the model compact statute shall be
15 entitled to the default process set forth in subsection 11.

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

21 (2) Member states enacting the compact subsequent to the
22 seven initial charter member states shall be subject to the
23 process set forth in subsection 8, paragraph "c", subparagraph
24 (21), to determine if their enactments are materially different
25 from the model compact statute and whether they qualify for
26 participation in the compact.

27 (3) All actions taken for the benefit of the compact
28 commission or in furtherance of the purposes of the
29 administration of the compact prior to the effective date of
30 the compact or the compact commission coming into existence
31 shall be considered to be actions of the compact commission
32 unless specifically repudiated by the compact commission.

33 (4) Any state that joins the compact subsequent to the
34 compact commission's initial adoption of the rules and bylaws
35 shall be subject to the rules and bylaws as they exist on the

1 date on which the compact becomes law in that state. Any rule
2 that has been previously adopted by the compact commission
3 shall have the full force and effect of law on the day the
4 compact becomes law in that state.

5 *b.* Any member state may withdraw from this compact by
6 enacting a statute repealing the compact.

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

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

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

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

27 *d.* This compact may be amended by the member states. No
28 amendment to this compact shall become effective and binding
29 upon any member state until it is enacted into the laws of all
30 member states.

31 13. *Construction and severability.*

32 *a.* This compact and the compact commission's rulemaking
33 authority shall be liberally construed so as to effectuate
34 the purposes and the implementation and administration of the
35 compact. Provisions of the compact expressly authorizing or

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

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

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

24 14. *Consistent effect and conflict with other state laws.*

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

28 **b.** Any laws, statutes, regulations, or other legal
29 requirements in a member state in conflict with the compact are
30 superseded to the extent of the conflict.

31 **c.** All permissible agreements between the compact commission
32 and the member states are binding in accordance with their
33 terms.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill establishes the dietitian licensure compact.

3 The compact establishes a system whereby a dietitian
4 licensed to practice in one member state may practice in
5 another member state under a multistate license without
6 applying for a license in that state. The compact imposes
7 certain minimum requirements on the licensure of dietitians in
8 member states.

9 The compact creates a commission to administer the operation
10 of the compact. The commission is an instrumentality of the
11 member states. The compact includes provisions relating to the
12 establishment and membership of the commission; powers of the
13 commission, meetings and voting requirements of the commission;
14 commission bylaws and rules; commission committees; commission
15 finances; the establishment of a licensure data system;
16 oversight by member states; compacting state compliance;
17 venue for judicial proceedings; defense and indemnification;
18 effective dates and amendments to the compact; withdrawal,
19 default, and expulsion; severability and construction; and the
20 binding effect of the compact and other laws.

21 The compact becomes effective upon the adoption of the
22 compact by the seventh participating state.