

LC000297

IN GENERAL ASSEMBLY

RELATING TO BUSINESSES AND PROFESSIONS -- DIETITIAN LICENSURE COMPACT

Referred To: House Corporations

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

DIETITIAN LICENSURE COMPACT

This chapter shall be known and may be cited as "Dietitian Licensure Compact".

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

For purposes of this section, the following terms shall have the following meanings:

16 (2) "Active military member" means any individual with full-time duty status in the active
17 armed forces of the United States, including members of the National Guard and Reserve.

18 (3) "Adverse action" means any administrative, civil, equitable or criminal action permitted
19 by a state's laws which is imposed by a licensing authority or other authority against a licensee.

1 including actions against an individual's license or compact privilege such as revocation,
2 suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other
3 encumbrance on licensure affecting a licensee's authorization to practice, including issuance of a
4 cease and desist action.

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

7 (5) "CDR" means the Commission on Dietetic Registration or its successor organization

8 (6) "Charter member state" means any member state which enacted the compact by law
9 before the effective date pursuant to § 5-64.2-13.

10 (7) "Compact commission" means the government agency whose membership consists of
11 all states that have enacted the compact, which is known as the dietitian licensure compact
12 commission, pursuant to § 5-64.2-9, and which shall operate as an instrumentality of the member
13 states.

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

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

19 (10) "Current significant investigative information" means:

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

24 (ii) Investigative information that indicates that the subject licensee represents an
25 immediate threat to public health and safety regardless of whether the subject licensee has been
26 notified and had an opportunity to respond.

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

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

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

34 (14) "Executive committee" means a group of delegates elected or appointed to act on

1 behalf of, and within the powers granted to them by, the compact, and the compact commission.

2 (15) "Home state" means the member state that is the licensee's primary state of residence
3 or that has been designated pursuant to § 5-64.2-7.

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

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

8 (18) "License" means an authorization from a member state to either:
9 (i) Engage in the practice of dietetics (including medical nutrition therapy); or
10 (ii) Use the title "dietitian," "licensed dietitian," "licensed dietitian nutritionist," "certified
11 dietitian," or other title describing a substantially similar practitioner as the compact commission
12 may further define by rule.

13 (19) "Licensee" or "licensed dietitian" means an individual who currently holds a license
14 and who meets all of the requirements set forth in § 5-64.2-5.

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

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

18 (22) "Practice of dietetics" means the synthesis and application of dietetics, primarily for
19 the provision of nutrition care services, including medical nutrition therapy, in person or via
20 telehealth, to prevent, manage, or treat diseases or medical conditions and promote wellness.

21 (23) "Registered dietitian" means a person who:
22 (i) Has completed applicable education, experience, examination, and recertification
23 requirements approved by CDR;
24 (ii) Is credentialed by CDR as a registered dietitian or a registered dietitian nutritionist; and
25 (iii) Is legally authorized to use the title registered dietitian or registered dietitian
26 nutritionist and the corresponding abbreviations "RD" or "RDN."

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

29 (25) "Rule" means a regulation promulgated by the compact commission that has the force
30 of law.

31 (26) "Single state license" means a license issued by a member state within the issuing state
32 and does not include a compact privilege in any other member state.

33 (27) "State" means any state, commonwealth, district, or territory of the United States of
34 America.

1 (28) "Unencumbered license" means a license that authorizes a licensee to engage in the
2 full and unrestricted practice of dietetics.

3 **5-64.2-4. State participation in the compact.**

4 (a) To participate in the compact, a state must currently:

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

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

7 (b) A member state shall:

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

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

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

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

22 (ii) Communication between a member state and the compact commission or among
23 member states regarding the verification of eligibility for a compact privilege shall not include any
24 information received from the federal bureau of investigation relating to a federal criminal history
25 record information check performed by a member state.

26 (4) Comply with and enforce the rules of the compact commission;

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

30 (6) Recognize a compact privilege granted to a licensee who meets all of the requirements
31 outlined in § 5-64.2-5 in accordance with the terms of the compact and rules.

32 (c) Member states may set and collect a fee for granting a compact privilege.

33 (d) Individuals not residing in a member state shall continue to be able to apply for a
34 member state's single state license as provided under the laws of each member state. However, the

single state license granted to these individuals shall not be recognized as granting a compact privilege to engage in the practice of dietetics in any other member state.

(e) Nothing in this chapter 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.

5-64.2-5. Compact privilege.

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

(1) Satisfy one of the following:

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

(ii) Complete all of the following:

(A) An education program which is either:

(I) A master's degree or doctoral degree that is programmatically accredited by ACEND or 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.

(II) An academic degree from a college or university in a foreign country equivalent to the degree described in subsection (a) of this section, that is programmatically accredited by ACEND or a dietetics accrediting agency recognized by the United States Department of Education, which the compact commission may by rule determine.

(B) A planned, documented, supervised practice experience in dietetics that is programmatically accredited by ACEND, or a dietetics accrediting agency recognized by the United States Department of Education which the compact commission may by rule determine and which involves at least one thousand (1,000) hours of practice experience under the supervision of a registered dietitian or a licensed dietitian.

(C) Successful completion of either:

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

(II) A national credentialing examination for dietitians approved by the compact commission by rule; such completion being no more than five (5) years prior to the date of the licensee's application for initial licensure and accompanied by a period of continuous licensure

1 thereafter, all of which may be further governed by the rules of the compact commission.

2 (2) Hold an unencumbered license in the home state;

3 (3) Notify the compact commission that the licensee is seeking a compact privilege within
4 a remote state(s);

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

6 (5) Meet any jurisprudence requirements established by the remote state(s) in which the
7 licensee is seeking a compact privilege; and

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

10 (b) The compact privilege is valid until the expiration date of the home state license. To
11 maintain a compact privilege, renewal of the compact privilege shall be congruent with the renewal
12 of the home state license as the compact commission may define by rule. The licensee must comply
13 with the requirements of subsection (a) of this section to maintain the compact privilege in the
14 remote state(s).

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

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

22 **5-64.2-6. Obtaining a new home state license based on a compact privilege.**

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

25 (b) If a licensee changes home state by moving between two (2) member states:

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

29 (2) Upon receipt of an application for obtaining a new home state license by virtue of a
30 compact privilege, the new home state shall verify that the licensee meets the criteria set forth in §
31 5-64.2-5 via the data system, and require that the licensee complete the following:

32 (i) Federal bureau of investigation fingerprint based criminal history record information
33 check;

34 (ii) Any other criminal history record information required by the new home state; and

1 (iii) Any jurisprudence requirements of the new home state.

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

5 (4) Notwithstanding any other provision of this chapter, if the licensee cannot meet the
6 criteria set forth in § 5-64.2-5, the new home state may apply its requirements for issuing a new
7 single state license.

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

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

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

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

18 **5-64.2-7. Active military members and spouses.**

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

22 **5-64.2-8. Adverse actions.**

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

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

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

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

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

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

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

15 **(f) A member state may take adverse action based on the factual findings of another remote**
16 **state; provided that, the member state follows its own procedures for taking the adverse action.**

17 **(g) Joint investigations:**

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

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

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

28 **(i) Once an encumbered license in the home state is restored to an unencumbered license**
29 **(as certified by the home state's licensing authority), the licensee must meet the requirements of §**
30 **5-64.2-5 and follow the administrative requirements to reapply to obtain a compact privilege in any**
31 **remote state.**

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

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

3 **5-64.2-9. Establishment of the dietitian licensure compact commission.**

4 (a) The compact member states hereby create and establish a joint government agency
5 whose membership consists of all member states that have enacted the compact known as the
6 dietitian licensure compact commission. The compact commission is an instrumentality of the
7 compact states acting jointly and not an instrumentality of any one state. The compact commission
8 shall come into existence on or after the effective date of the compact as set forth in § 5-64.2-13.

9 (b) Membership, voting, and meetings

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

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

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

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

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

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

22 (7) Delegates shall meet and vote by such means as set forth in the bylaws. The bylaws
23 may provide for delegates to meet 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 each calendar year. Additional
26 meetings may be held as set forth in the bylaws. The compact commission may meet in person or
27 by telecommunication, video conference, or other means of communication.

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

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

30 (2) Establish code of conduct and conflict of interest policies;

31 (3) Establish and amend rules and bylaws;

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

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

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

4 (7) Maintain and certify records and information provided to a member state as the
5 authenticated business records of the compact commission, and designate an agent to do so on the
6 compact commission's behalf;

7 (8) Purchase and maintain insurance and bonds;

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

10 (10) Conduct an annual financial review;

11 (11) Hire employees, elect or appoint officers, fix compensation, define duties, grant such
12 individuals appropriate authority to carry out the purposes of the compact, and establish the
13 compact commission's personnel policies and programs relating to conflicts of interest,
14 qualifications of personnel, and other related personnel matters;

15 (12) Assess and collect fees;

16 (13) Accept any and all appropriate donations, grants of money, other sources of revenue,
17 equipment, supplies, materials, services, and gifts, and receive, utilize, and dispose of the same;
18 provided that, at all times the compact commission shall avoid any actual or appearance of
19 impropriety or conflict of interest;

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

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

24 (16) Establish a budget and make expenditures;

25 (17) Borrow money;

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

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

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

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

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

1 (d) Executive committee.

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

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

8 (ii) Recommend to the compact commission changes to the rules or bylaws, changes to this
9 compact legislation, fees charged to compact member states, fees charged to licensees, and other
10 fees;

11 (iii) Ensure compact administration services are appropriately provided, including by
12 contract;

13 (iv) Prepare and recommend the budget;

14 (v) Maintain financial records on behalf of the compact commission;

15 (vi) Monitor compact compliance of member states and provide compliance reports to the
16 compact commission;

17 (vii) Establish additional committees as necessary;

18 (viii) Exercise the powers and duties of the compact commission during the interim
19 between compact commission meetings, except for adopting or amending rules, adopting or
20 amending bylaws, and exercising any other powers and duties expressly reserved to the compact
21 commission by rule or bylaw; and

22 (vix) Other duties as provided in the rules or bylaws of the compact commission.

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

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

26 (ii) Five (5) voting members from the current membership of the compact commission,
27 elected by the compact commission;

28 (iii) One exofficio, nonvoting member from a recognized professional association
29 representing dietitians; and

30 (iv) One exofficio, nonvoting member from a recognized national credentialing
31 organization for dietitians.

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

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

1 (i) Executive committee meetings shall be open to the public, except that the executive
2 committee may meet in a closed, non-public meeting as provided in subsection (f) of this section.

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

6 (iii) The executive committee may hold a special meeting in accordance with subsection
7 (f) of this section.

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

9 (f) Meetings of the compact commission

10 (1) All meetings shall be open to the public, except that the compact commission may meet
11 in a closed, non-public meeting as provided in subsection (f)(2) of this section.

12 (i) Public notice for all meetings of the full compact commission shall be given in the same
13 manner as required under the rulemaking provisions in § 5-64.2-13, except that the compact
14 commission may hold a special meeting as provided in subsection (f)(1)(ii) of this section.

15 (ii) The compact commission may hold a special meeting when it must meet to conduct
16 emergency business by giving twenty-four (24) hours notice to all member states, on the compact
17 commission's website, and other means as provided in the compact commission's rules. The
18 compact commission's legal counsel shall certify that the compact commission's need to meet
19 qualifies as an emergency.

20 (2) The compact commission or the executive committee or other committees of the
21 compact commission may convene in a closed, non-public meeting for the compact commission or
22 executive committee or other committees of the compact commission to receive legal advice or to
23 discuss:

24 (i) Non-compliance of a member state with its obligations under the compact;

25 (ii) The employment, compensation, discipline, or other matters, practices, or procedures
26 related to specific employees;

27 (iii) Current or threatened discipline of a licensee by the compact commission or by a
28 member state's licensing authority;

29 (iv) Current, threatened, or reasonably anticipated litigation;

30 (v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

31 (vi) Accusing any person of a crime or formally censuring any person;

32 (vii) Trade secrets or commercial or financial information that is privileged or confidential;

33 (viii) Information of a personal nature where disclosure would constitute a clearly
34 unwarranted invasion of personal privacy;

1 (vix) Investigative records compiled for law enforcement purposes;

2 (x) Information related to any investigative reports prepared by or on behalf of or for use
3 of the compact commission or other committee charged with responsibility of investigation or
4 determination of compliance issues pursuant to this chapter;

5 (xi) Matters specifically exempted from disclosure by federal or member state law; or

6 (xii) Other matters as specified in the rules of the compact commission.

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

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

16 (g) Financing of the compact commission.

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

19 (2) The compact commission may accept any and all appropriate revenue sources as
20 provided in subsection (c) of this section.

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

28 (4) The compact commission shall not incur obligations of any kind prior to securing the
29 funds adequate to meet the same; nor shall the compact commission pledge the credit of any of the
30 member states, except by and with the authority of the member state.

31 (5) The compact commission shall keep accurate accounts of all receipts and
32 disbursements. The receipts and disbursements of the compact commission shall be subject to the
33 financial review and accounting procedures established under its bylaws. However, all receipts and
34 disbursements of funds handled by the compact commission shall be subject to an annual financial

1 review by a certified or licensed public accountant, and the report of the financial review shall be
2 included in and become part of the annual report of the compact commission.

3 (h) Qualified immunity, defense, and indemnification.

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

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

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

31 (4) Nothing herein shall be construed as a limitation on the liability of any licensee for
32 professional malpractice or misconduct, which shall be governed solely by any other applicable
33 state laws.

34 (5) Nothing in this chapter shall be interpreted to waive or otherwise abrogate a member

1 state's state action immunity or state action affirmative defense with respect to antitrust claims
2 under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law
3 or regulation.

4 (6) Nothing in this chapter shall be construed to be a waiver of sovereign immunity by the
5 member states or by the compact commission.

6 **5-64.2-10. Data system.**

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

9 (b) The compact commission shall assign each applicant for a compact privilege a unique
10 identifier, as determined by the rules.

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

14 (1) Identifying information;

15 (2) Licensure data;

16 (3) Adverse actions against a license or compact privilege and information related thereto;

17 (4) Non-confidential information related to alternative program participation, the
18 beginning and ending dates of such participation, and other information related to such participation
19 not made confidential under member state law;

20 (5) Any denial of application for licensure, and the reason(s) for such denial;

21 (6) The presence of current significant investigative information; and

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

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

29 (e) Current significant investigative information pertaining to a licensee in any member
30 state will only be available to other member states.

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

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

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

6 **5-64.2-11. Rulemaking.**

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

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

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

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

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

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

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

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

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

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

2 (h) The notice of proposed rulemaking shall include:

3 (1) The time, date, and location of the public hearing at which the compact commission
4 will hear public comments on the proposed rule and, if different, the time, date, and location of the
5 meeting where the compact commission will consider and vote on the proposed rule;

6 (2) If the hearing is held via telecommunication, video conference, or other means of
7 communication, the compact commission shall include the mechanism for access to the hearing in
8 the notice of proposed rulemaking;

9 (3) The text of the proposed rule and the reason therefore;

10 (4) A request for comments on the proposed rule from any interested person; and

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

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

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

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

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

22 (2) The compact commission shall provide an explanation of the reasons for substantive
23 changes made to the proposed rule as well as reasons for substantive changes not made that were
24 recommended by commenters.

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

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

34 (1) Meet an imminent threat to public health, safety, or welfare;

1 (2) Prevent a loss of compact commission or member state funds;
2 (3) Meet a deadline for the promulgation of a rule that is established by federal law or rule;
3 or

4 (4) Protect public health and safety.

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

14 (n) No member state's rulemaking requirements shall apply under this chapter.

15 **5-64.2-12. Oversight, dispute resolution and enforcement.**

16 (a) Oversight.

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

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

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

31 (b) Default, technical assistance and termination.

32 (1) If the compact commission determines that a member state has defaulted in the
33 performance of its obligations or responsibilities under this chapter or the promulgated rules, the
34 compact commission shall provide written notice to the defaulting state. The notice of default shall

1 describe the default, the proposed means of curing the default, and any other action that the compact
2 commission may take and shall offer training and specific technical assistance regarding the
3 default.

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

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

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

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

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

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

26 (h) The defaulting state may appeal the action of the compact commission by petitioning
27 the U.S. District Court for the District of Columbia or the federal district where the compact
28 commission has its principal offices. The prevailing party shall be awarded all costs of such
29 litigation, including reasonable attorneys' fees.

30 (i) Dispute resolution.

31 (1) Upon request by a member state, the compact commission shall attempt to resolve
32 disputes related to the compact that arise among member states and between member and non-
33 member states.

34 (2) The compact commission shall promulgate a rule providing for both mediation and

1 binding dispute resolution for disputes as appropriate.

2 (j) Enforcement.

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

11 (1) A member state may initiate legal action against the compact commission in the U.S.
12 District Court for the District of Columbia or the federal district where the compact commission
13 has its principal offices to enforce compliance with the provisions of the compact and its
14 promulgated rules. The relief sought may include both injunctive relief and damages. In the event
15 judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation,
16 including reasonable attorneys' fees.

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

19 **5-64.2-13. Effective date, withdrawal and amendment.**

20 (a) The compact shall come into effect on the date on which the compact is enacted into
21 law in the seventh member state.

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

26 (i) A charter member state whose enactment is found to be materially different from the
27 model compact statute shall be entitled to the default process set forth in § 5-64.2-12.

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

31 (2) Member states enacting the compact subsequent to the seven (7) initial charter member
32 states shall be subject to the process set forth in § 5-64.2-9 to determine if their enactments are
33 materially different from the model compact statute and whether they qualify for participation in
34 the compact.

1 (3) All actions taken for the benefit of the compact commission or in furtherance of the
2 purposes of the administration of the compact prior to the effective date of the compact or the
3 compact commission coming into existence shall be considered to be actions of the compact
4 commission unless specifically repudiated by the compact commission.

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

10 (b) Any member state may withdraw from this compact by enacting a statute repealing the
11 same.

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

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

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

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

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

28 **5-64.2-14. Construction and severability.**

29 (a) This compact and the compact commission's rulemaking authority shall be liberally
30 construed so as to effectuate the purposes and the implementation and administration of the
31 compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules
32 shall not be construed to limit the compact commission's rulemaking authority solely for those
33 purposes.

34 (b) The provisions of this chapter shall be severable and if any phrase, clause, sentence, or

1 provision of this chapter is held by a court of competent jurisdiction to be contrary to the
2 constitution of any member state, a state seeking participation in the compact, or of the United
3 States, or the applicability thereof to any government, agency, person, or circumstance is held to
4 be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this chapter
5 and the applicability thereof to any other government, agency, person, or circumstance shall not be
6 affected thereby.

7 (c) Notwithstanding subsection (b) of this section, the compact commission may deny a
8 state's participation in the compact or, in accordance with the requirements of § 5-64.2-12,
9 terminate a member state's participation in the compact, if it determines that a constitutional
10 requirement of a member state is a material departure from the compact. Otherwise, if this compact
11 shall be held to be contrary to the constitution of any member state, the compact shall remain in
12 full force and effect as to the remaining member states and in full force and effect as to the member
13 state affected as to all severable matters.

14 **5-64.2-15. Consistent effect and conflict with other state laws.**

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

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

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

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- DIETITIAN LICENSURE COMPACT

- 1 This act would allow for the enactment of the dietitian licensure compact permitting a
2 licensed dietitian from another state to become licensed within the State of Rhode Island, and also
3 permitting a dietitian licensed by the State of Rhode Island to become licensed in another compact
4 state. The purpose of the compact is to increase public access to dietetics services, eliminate the
5 necessity of licenses in multiple states, and enhance the state's ability to protect the public's health
6 and safety.
- 7 This act would take effect upon passage.

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