
HOUSE BILL 2088

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By Representatives Leavitt, Keaton, Barnard, Timmons, Reed, Jacobsen, Ryu, Zahn, Richards, Doglio, Simmons, Reeves, Macri, Pollet, and Bernbaum

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1 AN ACT Relating to the dietitian licensure compact; and adding a
2 new chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The purpose of this compact is to
5 facilitate interstate practice of dietetics with the goal of
6 improving public access to dietetics services. This compact preserves
7 the regulatory authority of states to protect public health and
8 safety through the current system of state licensure, while also
9 providing for licensure portability through a compact privilege
10 granted to qualifying professionals.

11 This compact is designed to achieve the following objectives:

- 12 (1) Increase public access to dietetics services;
- 13 (2) Provide opportunities for interstate practice by licensed
14 dietitians who meet uniform requirements;
- 15 (3) Eliminate the necessity for licenses in multiple states;
- 16 (4) Reduce administrative burden on member states and licensees;
- 17 (5) Enhance the states' ability to protect the public's health
18 and safety;
- 19 (6) Encourage the cooperation of member states in regulating
20 multistate practice of licensed dietitians;
- 21 (7) Support relocating active military members and their spouses;

1 (8) Enhance the exchange of licensure, investigative, and
2 disciplinary information among member states; and

3 (9) Vest all member states with the authority to hold a licensed
4 dietitian accountable for meeting all state practice laws in the
5 state in which the patient is located at the time care is rendered.

6 NEW SECTION. **Sec. 2.** As used in this compact, and except as
7 otherwise provided, the following definitions apply:

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

10 (2) "Active military member" means any individual with full-time
11 duty status in the active armed forces of the United states,
12 including members of the national guard and reserve.

13 (3) "Adverse action" means any administrative, civil, equitable,
14 or criminal action permitted by a state's laws which is imposed by a
15 licensing authority or other authority against a licensee, including
16 actions against an individual's license or compact privilege such as
17 revocation, suspension, probation, monitoring of the licensee,
18 limitation on the licensee's practice, or any other encumbrance on
19 licensure affecting a licensee's authorization to practice, including
20 issuance of a cease and desist action.

21 (4) "Alternative program" means a nondisciplinary monitoring or
22 practice remediation process approved by a licensing authority.

23 (5) "Charter member state" means any member state which enacted
24 this compact by law before the effective date specified in section 12
25 of this act.

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

30 (7) "CDR" means the commission on dietetic registration or its
31 successor organization.

32 (8) "Compact commission" means the government agency whose
33 membership consists of all states that have enacted this compact,
34 which is known as the dietitian licensure compact commission, as
35 described in section 8 of this act, and which shall operate as an
36 instrumentality of the member states.

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

1 (10) "Current significant investigative information" means:
2 (a) Investigative information that a licensing authority, after a
3 preliminary inquiry that includes notification and an opportunity for
4 the subject licensee to respond, if required by state law, has reason
5 to believe is not groundless and, if proved true, would indicate more
6 than a minor infraction; or
7 (b) Investigative information that indicates that the subject
8 licensee represents an immediate threat to public health and safety
9 regardless of whether the subject licensee has been notified and had
10 an opportunity to respond.

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

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

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

20 (14) "Executive committee" means a group of delegates elected or
21 appointed to act on behalf of, and within the powers granted to them
22 by, this compact, and the compact commission.

23 (15) "Home state" means the member state that is the licensee's
24 primary state of residence or that has been designated pursuant to
25 section 6 of this act.

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

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

32 (18) "License" means an authorization from a member state to
33 either:
34 (a) Engage in the practice of dietetics (including medical
35 nutrition therapy); or
36 (b) Use the title "dietitian," "licensed dietitian," "licensed
37 dietitian nutritionist," "certified dietitian," or other title
38 describing a substantially similar practitioner as the compact
39 commission may further define by rule.

1 (19) "Licensee" or "licensed dietitian" means an individual who
2 currently holds a license and who meets all of the requirements
3 outlined in section 4 of this act.

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

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

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

13 (23) "Registered dietitian" means a person who:

14 (a) Has completed applicable education, experience, examination,
15 and recertification requirements approved by the CDR;

16 (b) Is credentialed by the CDR as a registered dietitian or a
17 registered dietitian nutritionist; and

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

21 (24) "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 (25) "Rule" means a regulation promulgated by the compact
25 commission that has the force of law.

26 (26) "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 (27) "State" means any state, commonwealth, district, or
30 territory of the United States of America.

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

34 NEW SECTION. **Sec. 3.** (1) To participate in the compact, a state
35 must currently:

36 (a) License and regulate the practice of dietetics; and

37 (b) Have a mechanism in place for receiving and investigating
38 complaints about licensees.

39 (2) A member state shall:

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

3 (b) Notify the compact commission, in compliance with the terms
4 of the compact and rules, of any adverse action or the availability
5 of current significant investigative information regarding a
6 licensee;

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

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

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

25 (d) Comply with and enforce the rules of the compact commission;

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

30 (f) Recognize a compact privilege granted to a licensee who meets
31 all of the requirements outlined in section 4 of this act in
32 accordance with the terms of the compact and rules.

33 (3) Member states may set and collect a fee for granting a
34 compact privilege.

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

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

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

8 NEW SECTION. **Sec. 4.** (1) To exercise the compact privilege
9 under the terms and provisions of the compact, the licensee shall:

10 (a) Satisfy one of the following:

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

13 (ii) Complete all of the following:

14 (A) An education program which is either:

15 (I) A master's degree or doctoral degree that is programmatically
16 accredited by (1) ACEND; or (2) a dietetics accrediting agency
17 recognized by the United States department of education, which the
18 compact commission may by rule determine, and from a college or
19 university accredited at the time of graduation by the appropriate
20 regional accrediting agency recognized by the council on higher
21 education accreditation and the United States department of
22 education.

23 (II) An academic degree from a college or university in a foreign
24 country equivalent to the degree described in (a)(ii)(A)(I) of this
25 subsection that is programmatically accredited by (1) ACEND; or (2) a
26 dietetics accrediting agency recognized by the United States
27 department of education, which the compact commission may by rule
28 determine.

29 (B) A planned, documented, supervised practice experience in
30 dietetics that is programmatically accredited by (I) ACEND, or (II) a
31 dietetics accrediting agency recognized by the United States
32 department of education which the compact commission may by rule
33 determine and which involves at least 1,000 hours of practice
34 experience under the supervision of a registered dietitian or a
35 licensed dietitian.

36 (C) Successful completion of either: (I) The registration
37 examination for dietitians administered by CDR; or (II) a national
38 credentialing examination for dietitians approved by the compact
39 commission by rule; such completion being no more than five years

1 prior to the date of the licensee's application for initial licensure
2 and accompanied by a period of continuous licensure thereafter, all
3 of which may be further governed by the rules of the compact
4 commission;

5 (b) Hold an unencumbered license in the home state;

6 (c) Notify the compact commission that the licensee is seeking a
7 compact privilege within a remote state(s);

8 (d) Pay any applicable fees, including any state fee, for the
9 compact privilege;

10 (e) Meet any jurisprudence requirements established by the remote
11 state(s) in which the licensee is seeking a compact privilege; and

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

15 (2) The compact privilege is valid until the expiration date of
16 the home state license. To maintain a compact privilege, renewal of
17 the compact privilege shall be congruent with the renewal of the home
18 state license as the compact commission may define by rule. The
19 licensee must comply with the requirements of subsection (1) of this
20 section to maintain the compact privilege in the remote state(s).

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

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

32 NEW SECTION. **Sec. 5.** (1) A licensee may hold a home state
33 license, which allows for a compact privilege in other member states,
34 in only one member state at a time.

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

37 (a) The licensee shall file an application for obtaining a new
38 home state license based on a compact privilege, pay all applicable

1 fees, and notify the current and new home state in accordance with
2 the rules of the compact commission.

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

8 (i) Federal bureau of investigation fingerprint based criminal
9 history record information check;

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

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

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

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

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

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

27 (4) Nothing in this compact shall interfere with a licensee's
28 ability to hold a single state license in multiple states; however,
29 for the purposes of this compact, a licensee shall have only one home
30 state license.

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

34 NEW SECTION. **Sec. 6.** An active military member, or their
35 spouse, shall designate a home state where the individual has a
36 current license in good standing. The individual may retain the home
37 state designation during the period the service member is on active
38 duty.

1 NEW SECTION.

2 **Sec. 7.**

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

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

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

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

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

26 (4) The home state shall complete any pending investigations of a
27 licensee who changes home states during the course of the
28 investigations. The home state shall also have authority to take
29 appropriate action(s) and shall promptly report the conclusions of
30 the investigations to the administrator of the data system. The
31 administrator of the data system shall promptly notify the new home
32 state of any adverse actions.

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

37 (6) A member state may take adverse action based on the factual
38 findings of another remote state, provided that the member state
follows its own procedures for taking the adverse action.

(7) Joint investigations:

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

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

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

15 (9) Once an encumbered license in the home state is restored to
16 an unencumbered license (as certified by the home state's licensing
17 authority), the licensee must meet the requirements of section 4(1)
18 of this act and follow the administrative requirements to reapply to
19 obtain a compact privilege in any remote state.

20 (10) If a member state takes adverse action, it shall promptly
21 notify the administrator of the data system. The administrator of the
22 data system shall promptly notify the other member states state of
23 any adverse actions.

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

27 NEW SECTION. **Sec. 8.** (1) The compact member states hereby
28 create and establish a joint government agency whose membership
29 consists of all member states that have enacted the compact known as
30 the dietitian licensure compact commission. The compact commission is
31 an instrumentality of the compact states acting jointly and not an
32 instrumentality of any one state. The compact commission shall come
33 into existence on or after the effective date of the compact as set
34 forth in section 12 of this act.

35 (2) Membership, voting, and meetings:

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

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

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

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

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

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

11 (g) Delegates shall meet and vote by such means as set forth in
12 the bylaws. The bylaws may provide for delegates to meet and vote in-
13 person or by telecommunication, videoconference, or other means of
14 communication.

15 (h) The compact commission shall meet at least once during each
16 calendar year. Additional meetings may be held as set forth in the
17 bylaws. The compact commission may meet in person or by
18 telecommunication, videoconference, or other means of communication.

19 (3) The compact commission shall have the following powers:

20 (a) Establish the fiscal year of the compact commission;

21 (b) Establish code of conduct and conflict of interest policies;

22 (c) Establish and amend rules and bylaws;

23 (d) Maintain its financial records in accordance with the bylaws;

24 (e) Meet and take such actions as are consistent with the
25 provisions of this compact, the compact commission's rules, and the
26 bylaws;

27 (f) Initiate and conclude legal proceedings or actions in the
28 name of the compact commission, provided that the standing of any
29 licensing authority to sue or be sued under applicable law shall not
30 be affected;

31 (g) Maintain and certify records and information provided to a
32 member state as the authenticated business records of the compact
33 commission, and designate an agent to do so on the compact
34 commission's behalf;

35 (h) Purchase and maintain insurance and bonds;

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

38 (j) Conduct an annual financial review;

39 (k) Hire employees, elect or appoint officers, fix compensation,
40 define duties, grant such individuals appropriate authority to carry

1 out the purposes of the compact, and establish the compact
2 commission's personnel policies and programs relating to conflicts of
3 interest, qualifications of personnel, and other related personnel
4 matters;

5 (l) Assess and collect fees;

6 (m) Accept any and all appropriate donations, grants of money,
7 other sources of revenue, equipment, supplies, materials, services,
8 and gifts, and receive, utilize, and dispose of the same; provided
9 that at all times the compact commission shall avoid any actual or
10 appearance of impropriety or conflict of interest;

11 (n) Lease, purchase, retain, own, hold, improve, or use any
12 property, real, personal, or mixed, or any undivided interest
13 therein;

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

16 (p) Establish a budget and make expenditures;

17 (q) Borrow money;

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

23 (s) Provide and receive information from, and cooperate with, law
24 enforcement agencies;

25 (t) Establish and elect an executive committee, including a chair
26 and a vice chair;

27 (u) Determine whether a state's adopted language is materially
28 different from the model compact language such that the state would
29 not qualify for participation in the compact; and

30 (v) Perform such other functions as may be necessary or
31 appropriate to achieve the purposes of this compact.

32 (4) The executive committee:

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

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

1 (ii) Recommend to the compact commission changes to the rules or
2 bylaws, changes to this compact legislation, fees charged to compact
3 member states, fees charged to licensees, and other fees;

4 (iii) Ensure compact administration services are appropriately
5 provided, including by contract;

6 (iv) Prepare and recommend the budget;

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

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

11 (vii) Establish additional committees as necessary;

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

17 (ix) Other duties as provided in the rules or bylaws of the
18 compact commission.

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

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

22 (ii) Five voting members from the current membership of the
23 compact commission, elected by the compact commission;

24 (iii) One ex officio, nonvoting member from a recognized
25 professional association representing dietitians; and

26 (iv) One ex officio, nonvoting member from a recognized national
27 credentialing organization for dietitians.

28 (c) The compact commission may remove any member of the executive
29 committee as provided in the compact commission's bylaws.

30 (d) The executive committee shall meet at least annually.

31 (i) Executive committee meetings shall be open to the public,
32 except that the executive committee may meet in a closed, nonpublic
33 meeting as provided in subsection (6)(b) of this section.

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

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

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

3 (6) Meetings of the compact commission:

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

7 (i) Public notice for all meetings of the full compact commission
8 shall be given in the same manner as required under the rule-making
9 provisions in section 10 of this act, except that the compact
10 commission may hold a special meeting as provided in (a)(ii) of this
11 subsection.

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

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

23 (i) Noncompliance of a member state with its obligations under
24 the compact;

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

27 (iii) Current or threatened discipline of a licensee by the
28 compact commission or by a 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
31 goods, services, or real estate;

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

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

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

38 (ix) Investigative records compiled for law enforcement purposes;

39 (x) Information related to any investigative reports prepared by
40 or on behalf of or for use of the compact commission or other

1 committee charged with responsibility of investigation or
2 determination of compliance issues pursuant to the compact;

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

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

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

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

19 (7) Financing of the compact commission:

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

23 (b) The compact commission may accept any and all appropriate
24 revenue sources as provided in subsection (3)(m) of this section.

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

34 (d) The compact commission shall not incur obligations of any
35 kind prior to securing the funds adequate to meet the same; nor shall
36 the compact commission pledge the credit of any of the member states,
37 except by and with the authority of the member state.

38 (e) The compact commission shall keep accurate accounts of all
39 receipts and disbursements. The receipts and disbursements of the
40 compact commission shall be subject to the financial review and

1 accounting procedures established under its bylaws. However, all
2 receipts and disbursements of funds handled by the compact commission
3 shall be subject to an annual financial review by a certified or
4 licensed public accountant, and the report of the financial review
5 shall be included in and become part of the annual report of the
6 compact commission.

7 (8) Qualified immunity, defense, and indemnification:

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

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

35 (c) The compact commission shall indemnify and hold harmless any
36 member, officer, executive director, employee, and representative of
37 the compact commission for the amount of any settlement or judgment
38 obtained against that person arising out of any actual or alleged
39 act, error, or omission that occurred within the scope of compact
40 commission employment, duties, or responsibilities, or that such

1 person had a reasonable basis for believing occurred within the scope
2 of compact commission employment, duties, or responsibilities;
3 provided that the actual or alleged act, error, or omission did not
4 result from the intentional or willful or wanton misconduct of that
5 person.

6 (d) Nothing herein shall be construed as a limitation on the
7 liability of any licensee for professional malpractice or misconduct,
8 which shall be governed solely by any other applicable state laws.

9 (e) Nothing in this compact shall be interpreted to waive or
10 otherwise abrogate a member state's state action immunity or state
11 action affirmative defense with respect to antitrust claims under the
12 Sherman act, Clayton act, or any other state or federal antitrust or
13 anticompetitive law or regulation.

14 (f) Nothing in this compact shall be construed to be a waiver of
15 sovereign immunity by the member states or by the compact commission.

16 NEW SECTION. **Sec. 9.** (1) The compact commission shall provide
17 for the development, maintenance, operation, and utilization of a
18 coordinated data system.

19 (2) The compact commission shall assign each applicant for a
20 compact privilege a unique identifier, as determined by the rules.

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

25 (a) Identifying information;

26 (b) Licensure data;

27 (c) Adverse actions against a license or compact privilege and
28 information related thereto;

29 (d) Nonconfidential information related to alternative program
30 participation, the beginning and ending dates of such participation,
31 and other information related to such participation not made
32 confidential under member state law;

33 (e) Any denial of application for licensure, and the reason(s)
34 for such denial;

35 (f) The presence of current significant investigative
36 information; and

37 (g) Other information that may facilitate the administration of
38 this compact or the protection of the public, as determined by the
39 rules of the compact commission.

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

8 (5) Current significant investigative information pertaining to a
9 licensee in any member state will only be available to other member
10 states.

11 (6) It is the responsibility of the member states to report any
12 adverse action against a licensee and to monitor the data system to
13 determine whether any adverse action has been taken against a
14 licensee. Adverse action information pertaining to a licensee in any
15 member state will be available to any other member state.

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

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

23 NEW SECTION. **Sec. 10.** (1) The compact commission shall
24 promulgate reasonable rules in order to effectively and efficiently
25 implement and administer the purposes and provisions of the compact.
26 A rule shall be invalid and have no force or effect only if a court
27 of competent jurisdiction holds that the rule is invalid because the
28 compact commission exercised its rule-making authority in a manner
29 that is beyond the scope and purposes of the compact, or the powers
30 granted hereunder, or based upon another applicable standard of
31 review.

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

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

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

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

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

16 (7) Prior to adoption of a proposed rule by the compact
17 commission, and at least 30 days in advance of the meeting at which
18 the compact commission will hold a public hearing on the proposed
19 rule, the compact commission shall provide a notice of proposed rule
20 making:

21 (a) On the website of the compact commission or other publicly
22 accessible platform;

23 (b) To persons who have requested notice of the compact
24 commission's notices of proposed rule making; and

25 (c) In such other way(s) as the compact commission may by rule
26 specify.

27 (8) The notice of proposed rule making shall include:

28 (a) The time, date, and location of the public hearing at which
29 the compact commission will hear public comments on the proposed rule
30 and, if different, the time, date, and location of the meeting where
31 the compact commission will consider and vote on the proposed rule;

32 (b) If the hearing is held via telecommunication,
33 videoconference, or other means of communication, the compact
34 commission shall include the mechanism for access to the hearing in
35 the notice of proposed rule making;

36 (c) The text of the proposed rule and the reason therefore;

37 (d) A request for comments on the proposed rule from any
38 interested person; and

39 (e) The manner in which interested persons may submit written
40 comments.

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

4 (10) Nothing in this section shall be construed as requiring a
5 separate hearing on each rule. Rules may be grouped for the
6 convenience of the compact commission at hearings required by this
7 section.

8 (11) The compact commission shall, by majority vote of all
9 members, take final action on the proposed rule based on the rule-
10 making record and the full text of the rule.

11 (a) The compact commission may adopt changes to the proposed rule
12 provided the changes do not enlarge the original purpose of the
13 proposed rule.

14 (b) The compact commission shall provide an explanation of the
15 reasons for substantive changes made to the proposed rule as well as
16 reasons for substantive changes not made that were recommended by
17 commenters.

18 (c) The compact commission shall determine a reasonable effective
19 date for the rule. Except for an emergency as provided in subsection
20 (12) of this section, the effective date of the rule shall be no
21 sooner than 30 days after issuing the notice that it adopted or
22 amended the rule.

23 (12) Upon determination that an emergency exists, the compact
24 commission may consider and adopt an emergency rule with 24 hours'
25 notice, with opportunity to comment, provided that the usual rule-
26 making procedures provided in the compact and in this section shall
27 be retroactively applied to the rule as soon as reasonably possible,
28 in no event later than 90 days after the effective date of the rule.
29 For the purposes of this subsection, an emergency rule is one that
30 must be adopted immediately in order to:

31 (a) Meet an imminent threat to public health, safety, or welfare;

32 (b) Prevent a loss of compact commission or member state funds;

33 (c) Meet a deadline for the promulgation of a rule that is
34 established by federal law or rule; or

35 (d) Protect public health and safety.

36 (13) The compact commission or an authorized committee of the
37 compact commission may direct revision to a previously adopted rule
38 for purposes of correcting typographical errors, errors in format,
39 errors in consistency, or grammatical errors. Public notice of any
40 revision shall be posted on the website of the compact commission.

1 The revision shall be subject to challenge by any person for a period
2 of 30 days after posting. The revision may be challenged only on
3 grounds that the revision results in a material change to a rule. A
4 challenge shall be made in writing and delivered to the compact
5 commission prior to the end of the notice period. If no challenge is
6 made, the revision will take effect without further action. If the
7 revision is challenged, the revision may not take effect without the
8 approval of the compact commission.

9 (14) No member state's rule-making requirements shall apply under
10 this compact.

11 NEW SECTION. **Sec. 11.** (1) Oversight:

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

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

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

31 (2) Default, technical assistance, and termination:

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

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

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

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

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

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

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

31 (8) The defaulting state may appeal the action of the compact
32 commission by petitioning the United States district court for the
33 District of Columbia or the federal district where the compact
34 commission has its principal offices. The prevailing party shall be
35 awarded all costs of such litigation, including reasonable attorneys'
36 fees.

37 (9) Dispute resolution:

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

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

4 (10) Enforcement:

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

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

25 (c) No party other than a member state shall enforce this compact
26 against the compact commission.

27 NEW SECTION. **Sec. 12.** (1) The compact shall come into effect on
28 the date on which the compact statute is enacted into law in the
29 seventh member state.

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

35 (i) A charter member state whose enactment is found to be
36 materially different from the model compact statute shall be entitled
37 to the default process set forth in section 11 of this act.

38 (ii) If any member state is later found to be in default, or is
39 terminated, or withdraws from the compact, the compact commission

1 shall remain in existence and the compact shall remain in effect even
2 if the number of member states should be less than seven.

3 (b) Member states enacting the compact subsequent to the seven
4 initial charter member states shall be subject to the process set
5 forth in section 8(3)(u) of this act to determine if their enactments
6 are materially different from the model compact statute and whether
7 they qualify for participation in the compact.

8 (c) All actions taken for the benefit of the compact commission
9 or in furtherance of the purposes of the administration of the
10 compact prior to the effective date of the compact or the compact
11 commission coming into existence shall be considered to be actions of
12 the compact commission unless specifically repudiated by the compact
13 commission.

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

21 (2) Any member state may withdraw from this compact by enacting a
22 statute repealing the same.

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

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

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

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

1 (4) This compact may be amended by the member states. No
2 amendment to this compact shall become effective and binding upon any
3 member state until it is enacted into the laws of all member states.

4 NEW SECTION. **Sec. 13.** (1) This compact and the compact
5 commission's rule-making authority shall be liberally construed so as
6 to effectuate the purposes and the implementation and administration
7 of the compact. Provisions of the compact expressly authorizing or
8 requiring the promulgation of rules shall not be construed to limit
9 the compact commission's rule-making authority solely for those
10 purposes.

11 (2) The provisions of this compact shall be severable and if any
12 phrase, clause, sentence, or provision of this compact is held by a
13 court of competent jurisdiction to be contrary to the constitution of
14 any member state, a state seeking participation in the compact, or of
15 the United States, or the applicability thereof to any government,
16 agency, person, or circumstance is held to be unconstitutional by a
17 court of competent jurisdiction, the validity of the remainder of
18 this compact and the applicability thereof to any other government,
19 agency, person, or circumstance shall not be affected thereby.

20 (3) Notwithstanding subsection (2) of this section, the compact
21 commission may deny a state's participation in the compact or, in
22 accordance with the requirements of section 11(2) of this act,
23 terminate a member state's participation in the compact, if it
24 determines that a constitutional requirement of a member state is a
25 material departure from the compact. Otherwise, if this compact shall
26 be held to be contrary to the Constitution of any member state, the
27 compact shall remain in full force and effect as to the remaining
28 member states and in full force and effect as to the member state
29 affected as to all severable matters.

30 NEW SECTION. **Sec. 14.** (1) Nothing herein shall prevent or
31 inhibit the enforcement of any other law of a member state that is
32 not inconsistent with the compact.

33 (2) Any laws, statutes, regulations, or other legal requirements
34 in a member state in conflict with the compact are superseded to the
35 extent of the conflict.

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

1 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
2 constitute a new chapter in Title 18 RCW.

--- **END** ---