

INTERIM STUDY PROPOSAL 2023-136

State of Arkansas
94th General Assembly

A Bill

JMB/JMB
HOUSE BILL

By: Representative L. Johnson

Filed with: House Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ADOPT THE DIETITIAN LICENSURE COMPACT IN
ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO ADOPT THE DIETITIAN LICENSURE COMPACT
IN ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, Chapter 83, is amended to add an
additional subchapter to read as follows:

Subchapter 4 – Dietitian Licensure Compact

17-83-401. Text of compact.

The Dietitian Licensure Compact is enacted into law and entered into by
this state with all states legally joining therein and in the form
substantially as follows:

DIETITIAN LICENSURE COMPACT

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate Practice of Dietetics
with the goal of improving public access to dietetics services. This Compact
preserves the regulatory authority of States to protect public health and

1 safety through the current system of State licensure, while also providing
2 for licensure portability through a Compact Privilege granted to qualifying
3 professionals.

4 This Compact is designed to achieve the following objectives:

5 A. Increase public access to dietetics services;

6 B. Provide opportunities for interstate practice by Licensed
7 Dietitians who meet uniform requirements;

8 C. Eliminate the necessity for Licenses in multiple States;

9 D. Reduce administrative burden on Member States and Licensees;

10 E. Enhance the States' ability to protect the public's health and
11 safety;

12 F. Encourage the cooperation of Member States in regulating multistate
13 practice of Licensed Dietitians;

14 G. Support relocating Active Military Members and their spouses;

15 H. Enhance the exchange of licensure, investigative, and disciplinary
16 information among Member States; and

17 I. Vest all Member States with the authority to hold a Licensed
18 Dietitian accountable for meeting all State practice laws in the State in
19 which the patient is located at the time care is rendered.

20
21 SECTION 2. DEFINITIONS

22 As used in this Compact, and except as otherwise provided, the following
23 definitions shall apply:

24 A. "ACEND" means the Accreditation Council for Education in Nutrition
25 and Dietetics or its successor organization.

26 B. "Active Military Member" means any individual with full-time duty
27 status in the active armed forces of the United States, including members of
28 the National Guard and Reserve.

29 C. "Adverse Action" means any administrative, civil, equitable or
30 criminal action permitted by a State's laws which is imposed by a Licensing
31 Authority or other authority against a Licensee, including actions against an
32 individual's License or Compact Privilege such as revocation, suspension,
33 probation, monitoring of the Licensee, limitation on the Licensee's practice,
34 or any other Encumbrance on licensure affecting a Licensee's authorization to
35 practice, including issuance of a cease and desist action.

36 D. "Alternative Program" means a non-disciplinary monitoring or

1 practice remediation process approved by a Licensing Authority.

2 E. "Charter Member State" means any Member State which enacted this
3 Compact by law before the Effective Date specified in Section 12.

4 F. "Continuing Education" means a requirement, as a condition of
5 License renewal, to provide evidence of participation in, and completion of,
6 educational and professional activities relevant to practice or area of work.

7 G. "CDR" means the Commission on Dietetic Registration or its
8 successor organization.

9 H. "Compact Commission" means the government agency whose membership
10 consists of all States that have enacted this Compact, which is known as the
11 Dietitian Licensure Compact Commission, as described in Section 8, and which
12 shall operate as an instrumentality of the Member States.

13 I. "Compact Privilege" means a legal authorization, which is
14 equivalent to a License, permitting the Practice of Dietetics in a Remote
15 State.

16 J. "Current Significant Investigative Information" means:

17 1. Investigative Information that a Licensing Authority, after a
18 preliminary inquiry that includes notification and an opportunity for the
19 subject Licensee to respond, if required by State law, has reason to believe
20 is not groundless and, if proved true, would indicate more than a minor
21 infraction; or

22 2. Investigative Information that indicates that the subject
23 Licensee represents an immediate threat to public health and safety
24 regardless of whether the subject Licensee has been notified and had an
25 opportunity to respond.

26 K. "Data System" means a repository of information about Licensees,
27 including, but not limited to, Continuing Education, examination, licensure,
28 investigative, Compact Privilege and Adverse Action information.

29 L. "Encumbered License" means a License in which an Adverse Action
30 restricts a Licensee's ability to practice dietetics.

31 M. "Encumbrance" means a revocation or suspension of, or any
32 limitation on a Licensee's full and unrestricted Practice of Dietetics by a
33 Licensing Authority.

34 N. "Executive Committee" means a group of delegates elected or
35 appointed to act on behalf of, and within the powers granted to them by, this
36 Compact, and the Compact Commission.

1 O. “Home State” means the Member State that is the Licensee’s primary
2 State of residence or that has been designated pursuant to Section 6.

3 P. “Investigative Information” means information, records, and
4 documents received or generated by a Licensing Authority pursuant to an
5 investigation.

6 Q. “Jurisprudence Requirement” means an assessment of an individual’s
7 knowledge of the State laws and regulations governing the Practice of
8 Dietetics in such State.

9 R. “License” means an authorization from a Member State to either:

10 1. Engage in the Practice of Dietetics (including medical
11 nutrition therapy); or

12 2. Use the title "dietitian," "licensed dietitian," "licensed
13 dietitian nutritionist," "certified dietitian," or other title describing a
14 substantially similar practitioner as the Compact Commission may further
15 define by Rule.

16 S. “Licensee” or “Licensed Dietitian” means an individual who
17 currently holds a License and who meets all of the requirements outlined in
18 Section 4.

19 T. “Licensing Authority” means the board or agency of a State, or
20 equivalent, that is responsible for the licensing and regulation of the
21 Practice of Dietetics.

22 U. “Member State” means a State that has enacted the Compact.

23 V. “Practice of Dietetics” means the synthesis and application of
24 dietetics, primarily for the provision of nutrition care services, including
25 medical nutrition therapy, in person or via telehealth, to prevent, manage,
26 or treat diseases or medical conditions and promote wellness.

27 W. “Registered Dietitian” means a person who:

28 1. Has completed applicable education, experience, examination,
29 and recertification requirements approved by CDR;

30 2. Is credentialed by CDR as a registered dietitian or a
31 registered dietitian nutritionist; and

32 3. Is legally authorized to use the title registered dietitian
33 or registered dietitian nutritionist and the corresponding abbreviations “RD”
34 or “RDN.”

35 X. “Remote State” means a Member State other than the Home State,
36 where a Licensee is exercising or seeking to exercise a Compact Privilege.

1 Y. “Rule” means a regulation promulgated by the Compact Commission
2 that has the force of law.

3 Z. “Single State License” means a License issued by a Member State
4 within the issuing State and does not include a Compact Privilege in any
5 other Member State.

6 AA. “State” means any state, commonwealth, district, or territory of
7 the United States of America.

8 BB. “Unencumbered License” means a License that authorizes a Licensee
9 to engage in the full and unrestricted Practice of Dietetics.

10
11 SECTION 3. STATE PARTICIPATION IN THE COMPACT

12 A. To participate in the Compact, a State must currently:

13 1. License and regulate the Practice of Dietetics; and
14 2. Have a mechanism in place for receiving and investigating
15 complaints about Licensees.

16 B. A Member State shall:

17 1. Participate fully in the Compact Commission’s Data System,
18 including using the unique identifier as defined in Rules;

19 2. Notify the Compact Commission, in compliance with the terms
20 of the Compact and Rules, of any Adverse Action or the availability of
21 Current Significant Investigative Information regarding a Licensee;

22 3. Implement or utilize procedures for considering the criminal
23 history record information of applicants for an initial Compact Privilege.
24 These procedures shall include the submission of fingerprints or other
25 biometric-based information by applicants for the purpose of obtaining an
26 applicant’s criminal history record information from the Federal Bureau of
27 Investigation and the agency responsible for retaining that State’s criminal
28 records;

29 a. A Member State must fully implement a criminal history
30 record information requirement, within a time frame established by Rule,
31 which includes receiving the results of the Federal Bureau of Investigation
32 record search and shall use those results in determining Compact Privilege
33 eligibility.

34 b. Communication between a Member State and the Compact
35 Commission or among Member States regarding the verification of eligibility
36 for a Compact Privilege shall not include any information received from the

1 Federal Bureau of Investigation relating to a federal criminal history record
2 information check performed by a Member State.

3 4. Comply with and enforce the Rules of the Compact Commission;

4 5. Require an applicant for a Compact Privilege to obtain or
5 retain a License in the Licensee's Home State and meet the Home State's
6 qualifications for licensure or renewal of licensure, as well as all other
7 applicable State laws; and

8 6. Recognize a Compact Privilege granted to a Licensee who meets
9 all of the requirements outlined in Section 4 in accordance with the terms of
10 the Compact and Rules.

11 C. Member States may set and collect a fee for granting a Compact
12 Privilege.

13 D. Individuals not residing in a Member State shall continue to be
14 able to apply for a Member State's Single State License as provided under the
15 laws of each Member State. However, the Single State License granted to these
16 individuals shall not be recognized as granting a Compact Privilege to engage
17 in the Practice of Dietetics in any other Member State.

18 E. Nothing in this Compact shall affect the requirements established
19 by a Member State for the issuance of a Single State License.

20 F. At no point shall the Compact Commission have the power to define
21 the requirements for the issuance of a Single State License to practice
22 dietetics. The Member States shall retain sole jurisdiction over the
23 provision of these requirements.

24 25 SECTION 4. COMPACT PRIVILEGE

26 A. To exercise the Compact Privilege under the terms and provisions of
27 the Compact, the Licensee shall:

28 1. Satisfy one of the following:

29 a. Hold a valid current registration that gives the
30 applicant the right to use the term Registered Dietitian; or

31 b. Complete all of the following:

32 i. An education program which is either:

33 a) A master's degree or doctoral degree that
34 is programmatically accredited by (i) ACEND; or (ii) a dietetics accrediting
35 agency recognized by the United States Department of Education, which the
36 Compact Commission may by Rule determine, and from a college or university

1 accredited at the time of graduation by the appropriate regional accrediting
2 agency recognized by the Council on Higher Education Accreditation and the
3 United States Department of Education.

4 b) An academic degree from a college or
5 university in a foreign country equivalent to the degree described in
6 subparagraph (a) that is programmatically accredited by (i) ACEND; or (ii) a
7 dietetics accrediting agency recognized by the United States Department of
8 Education, which the Compact Commission may by Rule determine.

9 ii. A planned, documented, supervised practice
10 experience in dietetics that is programmatically accredited by (i) ACEND, or
11 (ii) a dietetics accrediting agency recognized by the United States
12 Department of Education which the Compact Commission may by Rule determine
13 and which involves at least 1000 hours of practice experience under the
14 supervision of a Registered Dietitian or a Licensed Dietitian.

15 iii. Successful completion of either: (i) the
16 Registration Examination for Dietitians administered by CDR, or (ii) a
17 national credentialing examination for dietitians approved by the Compact
18 Commission by Rule; such completion being no more than five years prior to
19 the date of the Licensee's application for initial licensure and accompanied
20 by a period of continuous licensure thereafter, all of which may be further
21 governed by the Rules of the Compact Commission.

22 2. Hold an Unencumbered License in the Home State;

23 3. Notify the Compact Commission that the Licensee is seeking a
24 Compact Privilege within a Remote State(s);

25 4. Pay any applicable fees, including any State fee, for the
26 Compact Privilege;

27 5. Meet any Jurisprudence Requirements established by the Remote
28 State(s) in which the Licensee is seeking a Compact Privilege; and

29 6. Report to the Compact Commission any Adverse Action,
30 Encumbrance, or restriction on a License taken by any non-Member State within
31 30 days from the date the action is taken.

32 B. The Compact Privilege is valid until the expiration date of the
33 Home State License. To maintain a Compact Privilege, renewal of the Compact
34 Privilege shall be congruent with the renewal of the Home State License as
35 the Compact Commission may define by Rule. The Licensee must comply with the
36 requirements of Section 4(A) to maintain the Compact Privilege in the Remote

1 State(s).

2 C. A Licensee exercising a Compact Privilege shall adhere to the laws
3 and regulations of the Remote State. Licensees shall be responsible for
4 educating themselves on, and complying with, any and all State laws relating
5 to the Practice of Dietetics in such Remote State.

6 D. Notwithstanding anything to the contrary provided in this Compact
7 or State law, a Licensee exercising a Compact Privilege shall not be required
8 to complete Continuing Education Requirements required by a Remote State. A
9 Licensee exercising a Compact Privilege is only required to meet any
10 Continuing Education Requirements as required by the Home State.

11
12 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BASED ON A COMPACT PRIVILEGE

13 A. A Licensee may hold a Home State License, which allows for a
14 Compact Privilege in other Member States, in only one Member State at a time.

15 B. If a Licensee changes Home State by moving between two Member
16 States:

17 1. The Licensee shall file an application for obtaining a new
18 Home State License based on a Compact Privilege, pay all applicable fees, and
19 notify the current and new Home State in accordance with the Rules of the
20 Compact Commission.

21 2. Upon receipt of an application for obtaining a new Home State
22 License by virtue of a Compact Privilege, the new Home State shall verify
23 that the Licensee meets the criteria in Section 4 via the Data System, and
24 require that the Licensee complete the following:

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

27 b. Any other criminal history record information required
28 by the new Home State; and

29 c. Any Jurisprudence Requirements of the new Home State.

30 3. The former Home State shall convert the former Home State
31 License into a Compact Privilege once the new Home State has activated the
32 new Home State License in accordance with applicable Rules adopted by the
33 Compact Commission.

34 4. Notwithstanding any other provision of this Compact, if the
35 Licensee cannot meet the criteria in Section 4, the new Home State may apply
36 its requirements for issuing a new Single State License.

1 5. The Licensee shall pay all applicable fees to the new Home
2 State in order to be issued a new Home State License.

3 C. If a Licensee changes their State of residence by moving from a
4 Member State to a non-Member State, or from a non-Member State to a Member
5 State, the State criteria shall apply for issuance of a Single State License
6 in the new State.

7 D. Nothing in this Compact shall interfere with a Licensee's ability
8 to hold a Single State License in multiple States; however, for the purposes
9 of this Compact, a Licensee shall have only one Home State License.

10 E. Nothing in this Compact shall affect the requirements established
11 by a Member State for the issuance of a Single State License.

12
13 SECTION 6. ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

14 An Active Military Member, or their spouse, shall designate a Home State
15 where the individual has a current License in good standing. The individual
16 may retain the Home State designation during the period the service member is
17 on active duty.

18
19 SECTION 7. ADVERSE ACTIONS

20 A. In addition to the other powers conferred by State law, a Remote
21 State shall have the authority, in accordance with existing State due process
22 law, to:

23 1. Take Adverse Action against a Licensee's Compact Privilege
24 within that Member State; and

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

35 B. Only the Home State shall have the power to take Adverse Action
36 against a Licensee's Home State License.

1 C. For purposes of taking Adverse Action, the Home State shall give
2 the same priority and effect to reported conduct received from a Member State
3 as it would if the conduct had occurred within the Home State. In so doing,
4 the Home State shall apply its own State laws to determine appropriate
5 action.

6 D. The Home State shall complete any pending investigations of a
7 Licensee who changes Home States during the course of the investigations. The
8 Home State shall also have authority to take appropriate action(s) and shall
9 promptly report the conclusions of the investigations to the administrator of
10 the Data System. The administrator of the Data System shall promptly notify
11 the new Home State of any Adverse Actions.

12 E. A Member State, if otherwise permitted by State law, may recover
13 from the affected Licensee the costs of investigations and dispositions of
14 cases resulting from any Adverse Action taken against that Licensee.

15 F. A Member State may take Adverse Action based on the factual
16 findings of another Remote State, provided that the Member State follows its
17 own procedures for taking the Adverse Action.

18 G. Joint Investigations:

19 1. In addition to the authority granted to a Member State by its
20 respective State law, any Member State may participate with other Member
21 States in joint investigations of Licensees.

22 2. Member States shall share any investigative, litigation, or
23 compliance materials in furtherance of any joint investigation initiated
24 under the Compact.

25 H. If Adverse Action is taken by the Home State against a Licensee's
26 Home State License resulting in an Encumbrance on the Home State License, the
27 Licensee's Compact Privilege(s) in all other Member States shall be revoked
28 until all Encumbrances have been removed from the Home State License. All
29 Home State disciplinary orders that impose Adverse Action against a Licensee
30 shall include a statement that the Licensee's Compact Privileges are revoked
31 in all Member States during the pendency of the order.

32 I. Once an Encumbered License in the Home State is restored to an
33 Unencumbered License (as certified by the Home State's Licensing Authority),
34 the Licensee must meet the requirements of Section 4(A) and follow the
35 administrative requirements to reapply to obtain a Compact Privilege in any
36 Remote State.

1 J. If a Member State takes Adverse Action, it shall promptly notify
2 the administrator of the Data System. The administrator of the Data System
3 shall promptly notify the other Member States State of any Adverse Actions.

4 K. Nothing in this Compact shall override a Member State's decision
5 that participation in an Alternative Program may be used in lieu of Adverse
6 Action.

7
8 SECTION 8. ESTABLISHMENT OF THE DIETITIAN LICENSURE COMPACT COMMISSION

9 A. The Compact Member States hereby create and establish a joint
10 government agency whose membership consists of all Member States that have
11 enacted the Compact known as the Dietitian Licensure Compact Commission. The
12 Compact Commission is an instrumentality of the Compact States acting jointly
13 and not an instrumentality of any one State. The Compact Commission shall
14 come into existence on or after the effective date of the Compact as set
15 forth in Section 12.

16 B. Membership, Voting, and Meetings

17 1. Each Member State shall have and be limited to one (1)
18 delegate selected by that Member State's Licensing Authority.

19 2. The delegate shall be the primary administrator of the
20 Licensing Authority or their designee.

21 3. The Compact Commission shall by Rule or bylaw establish a
22 term of office for delegates and may by Rule or bylaw establish term limits.

23 4. The Compact Commission may recommend removal or suspension of
24 any delegate from office.

25 5. A Member State's Licensing Authority shall fill any vacancy
26 of its delegate occurring on the Compact Commission within 60 days of the
27 vacancy.

28 6. Each delegate shall be entitled to one vote on all matters
29 before the Compact Commission requiring a vote by the delegates.

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

33 8. The Compact Commission shall meet at least once during each
34 calendar year. Additional meetings may be held as set forth in the bylaws.
35 The Compact Commission may meet in person or by telecommunication, video
36 conference, or other means of communication.

1 C. The Compact Commission shall have the following powers:

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

1 consumer representatives, and such other interested persons as may be
2 designated in this Compact or the bylaws;

3 19. Provide and receive information from, and cooperate with,
4 law enforcement agencies;

5 20. Establish and elect an Executive Committee, including a
6 chair and a vice chair;

7 21. Determine whether a State's adopted language is materially
8 different from the model compact language such that the State would not
9 qualify for participation in the Compact; and

10 22. Perform such other functions as may be necessary or
11 appropriate to achieve the purposes of this Compact.

12 D. The Executive Committee

13 1. The Executive Committee shall have the power to act on behalf
14 of the Compact Commission according to the terms of this Compact. The powers,
15 duties, and responsibilities of the Executive Committee shall include:

16 a. Oversee the day-to-day activities of the administration
17 of the Compact including enforcement and compliance with the provisions of
18 the Compact, its Rules and bylaws, and other such duties as deemed necessary;

19 b. Recommend to the Compact Commission changes to the
20 Rules or bylaws, changes to this Compact legislation, fees charged to Compact
21 Member States, fees charged to Licensees, and other fees;

22 c. Ensure Compact administration services are
23 appropriately provided, including by contract;

24 d. Prepare and recommend the budget;

25 e. Maintain financial records on behalf of the Compact
26 Commission;

27 f. Monitor Compact compliance of Member States and provide
28 compliance reports to the Compact Commission;

29 g. Establish additional committees as necessary;

30 h. Exercise the powers and duties of the Compact
31 Commission during the interim between Compact Commission meetings, except for
32 adopting or amending Rules, adopting or amending bylaws, and exercising any
33 other powers and duties expressly reserved to the Compact Commission by Rule
34 or bylaw; and

35 i. Other duties as provided in the Rules or bylaws of the
36 Compact Commission.

1 2. The Executive Committee shall be composed of nine members:

2 a. The chair and vice chair of the Compact Commission
3 shall be voting members of the Executive Committee;

4 b. Five voting members from the current membership of the
5 Compact Commission, elected by the Compact Commission;

6 c. One ex-officio, nonvoting member from a recognized
7 professional association representing dietitians; and

8 d. One ex-officio, nonvoting member from a recognized
9 national credentialing organization for dietitians.

10 3. The Compact Commission may remove any member of the Executive
11 Committee as provided in the Compact Commission's bylaws.

12 4. The Executive Committee shall meet at least annually.

13 a. Executive Committee meetings shall be open to the
14 public, except that the Executive Committee may meet in a closed, non-public
15 meeting as provided in subsection (F)(2).

16 b. The Executive Committee shall give 30 days' notice of
17 its meetings, posted on the website of the Compact Commission and as
18 determined to provide notice to persons with an interest in the business of
19 the Compact Commission.

20 c. The Executive Committee may hold a special meeting in
21 accordance with subsection (F)(1)(b).

22 E. The Compact Commission shall adopt and provide to the Member States
23 an annual report.

24 F. Meetings of the Compact Commission

25 1. All meetings shall be open to the public, except that the
26 Compact Commission may meet in a closed, non-public meeting as provided in
27 subsection (F)(2).

28 a. Public notice for all meetings of the full Compact
29 Commission shall be given in the same manner as required under the rulemaking
30 provisions in Section 10, except that the Compact Commission may hold a
31 special meeting as provided in subsection (F)(1)(b).

32 b. The Compact Commission may hold a special meeting when
33 it must meet to conduct emergency business by giving 24 hours' notice to all
34 Member States, on the Compact Commission's website, and other means as
35 provided in the Compact Commission's Rules. The Compact Commission's legal
36 counsel shall certify that the Compact Commission's need to meet qualifies as

1 an emergency.

2 2. The Compact Commission or the Executive Committee or other
3 committees of the Compact Commission may convene in a closed, non-public
4 meeting for the Compact Commission or Executive Committee or other committees
5 of the Compact Commission to receive legal advice or to discuss:

6 a. Non-compliance of a Member State with its obligations
7 under the Compact;

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

10 c. Current or threatened discipline of a Licensee by the
11 Compact Commission or by a Member State's Licensing Authority;

12 d. Current, threatened, or reasonably anticipated
13 litigation;

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

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

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

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

22 i. Investigative records compiled for law enforcement
23 purposes;

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

28 k. Matters specifically exempted from disclosure by
29 federal or Member State law; or

30 l. Other matters as specified in the Rules of the Compact
31 Commission.

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

36 4. The Compact Commission shall keep minutes that fully and

1 clearly describe all matters discussed in a meeting and shall provide a full
2 and accurate summary of actions taken, and the reasons therefore, including a
3 description of the views expressed. All documents considered in connection
4 with an action shall be identified in such minutes. All minutes and documents
5 of a closed meeting shall remain under seal, subject to release only by a
6 majority vote of the Compact Commission or order of a court of competent
7 jurisdiction.

8 G. Financing of the Compact Commission

9 1. The Compact Commission shall pay, or provide for the payment
10 of, the reasonable expenses of its establishment, organization, and ongoing
11 activities.

12 2. The Compact Commission may accept any and all appropriate
13 revenue sources as provided in subsection (C)(13).

14 3. The Compact Commission may levy on and collect an annual
15 assessment from each Member State and impose fees on Licensees of Member
16 States to whom it grants a Compact Privilege to cover the cost of the
17 operations and activities of the Compact Commission and its staff, which
18 must, in a total amount, be sufficient to cover its annual budget as approved
19 each year for which revenue is not provided by other sources. The aggregate
20 annual assessment amount for Member States shall be allocated based upon a
21 formula that the Compact Commission shall promulgate by Rule.

22 4. The Compact Commission shall not incur obligations of any
23 kind prior to securing the funds adequate to meet the same; nor shall the
24 Compact Commission pledge the credit of any of the Member States, except by
25 and with the authority of the Member State.

26 5. The Compact Commission shall keep accurate accounts of all
27 receipts and disbursements. The receipts and disbursements of the Compact
28 Commission shall be subject to the financial review and accounting procedures
29 established under its bylaws. However, all receipts and disbursements of
30 funds handled by the Compact Commission shall be subject to an annual
31 financial review by a certified or licensed public accountant, and the report
32 of the financial review shall be included in and become part of the annual
33 report of the Compact Commission.

34 H. Qualified Immunity, Defense, and Indemnification

35 1. The members, officers, executive director, employees and
36 representatives of the Compact Commission shall be immune from suit and

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

12 2. The Compact Commission shall defend any member, officer,
13 executive director, employee, and representative of the Compact Commission
14 in any civil action seeking to impose liability arising out of any actual or
15 alleged act, error, or omission that occurred within the scope of Compact
16 Commission employment, duties, or responsibilities, or as determined by the
17 Compact Commission that the person against whom the claim is made had a
18 reasonable basis for believing occurred within the scope of Compact
19 Commission employment, duties, or responsibilities; provided that nothing
20 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
22 alleged act, error, or omission did not result from that person's intentional
23 or willful or wanton misconduct.

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

34 4. Nothing herein shall be construed as a limitation on the
35 liability of any Licensee for professional malpractice or misconduct, which
36 shall be governed solely by any other applicable State laws.

1 5. Nothing in this Compact shall be interpreted to waive or
2 otherwise abrogate a Member State’s state action immunity or state action
3 affirmative defense with respect to antitrust claims under the Sherman Act,
4 Clayton Act, or any other State or federal antitrust or anticompetitive law
5 or regulation.

6 6. Nothing in this Compact shall be construed to be a waiver of
7 sovereign immunity by the Member States or by the Compact Commission.

8
9 SECTION 9. DATA SYSTEM

10 A. The Compact Commission shall provide for the development,
11 maintenance, operation, and utilization of a coordinated Data System.

12 B. The Compact Commission shall assign each applicant for a Compact
13 Privilege a unique identifier, as determined by the Rules.

14 C. Notwithstanding any other provision of State law to the contrary, a
15 Member State shall submit a uniform data set to the Data System on all
16 individuals to whom this Compact is applicable as required by the Rules of
17 the Compact Commission, including:

18 1. Identifying information;

19 2. Licensure data;

20 3. Adverse Actions against a License or Compact Privilege and
21 information related thereto;

22 4. Non-confidential information related to Alternative Program
23 participation, the beginning and ending dates of such participation, and
24 other information related to such participation not made confidential under
25 Member State law;

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

28 6. The presence of Current Significant Investigative
29 Information; and

30 7. Other information that may facilitate the administration of
31 this Compact or the protection of the public, as determined by the Rules of
32 the Compact Commission.

33 D. The records and information provided to a Member State pursuant to
34 this Compact or through the Data System, when certified by the Compact
35 Commission or an agent thereof, shall constitute the authenticated business
36 records of the Compact Commission, and shall be entitled to any associated

1 hearsay exception in any relevant judicial, quasi-judicial, or administrative
2 proceedings in a Member State.

3 E. Current Significant Investigative Information pertaining to a
4 Licensee in any Member State will only be available to other Member States.

5 F. It is the responsibility of the Member States to report any Adverse
6 Action against a Licensee and to monitor the Data System to determine whether
7 any Adverse Action has been taken against a Licensee. Adverse Action
8 information pertaining to a Licensee in any Member State will be available to
9 any other Member State.

10 G. Member States contributing information to the Data System may
11 designate information that may not be shared with the public without the
12 express permission of the contributing State.

13 H. Any information submitted to the Data System that is subsequently
14 expunged pursuant to federal law or the laws of the Member State contributing
15 the information shall be removed from the Data System.

17 SECTION 10. RULEMAKING

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

25 B. The Rules of the Compact Commission shall have the force of law in
26 each Member State, provided however that where the Rules conflict with the
27 laws or regulations of a Member State that relate to the procedures, actions,
28 and processes a Licensed Dietitian is permitted to undertake in that State
29 and the circumstances under which they may do so, as held by a court of
30 competent jurisdiction, the Rules of the Compact Commission shall be
31 ineffective in that State to the extent of the conflict.

32 C. The Compact Commission shall exercise its rulemaking powers
33 pursuant to the criteria set forth in this Section and the Rules adopted
34 thereunder. Rules shall become binding on the day following adoption or as of
35 the date specified in the Rule or amendment, whichever is later.

36 D. If a majority of the legislatures of the Member States rejects a

1 Rule or portion of a Rule, by enactment of a statute or resolution in the
2 same manner used to adopt the Compact within four (4) years of the date of
3 adoption of the Rule, then such Rule shall have no further force and effect
4 in any Member State.

5 E. Rules shall be adopted at a regular or special meeting of the
6 Compact Commission.

7 F. Prior to adoption of a proposed Rule, the Compact Commission shall
8 hold a public hearing and allow persons to provide oral and written comments,
9 data, facts, opinions, and arguments.

10 G. Prior to adoption of a proposed Rule by the Compact Commission, and
11 at least thirty (30) days in advance of the meeting at which the Compact
12 Commission will hold a public hearing on the proposed Rule, the Compact
13 Commission shall provide a Notice of Proposed rulemaking:

14 1. On the website of the Compact Commission or other publicly
15 accessible platform;

16 2. To persons who have requested notice of the Compact
17 Commission's notices of proposed rulemaking; and

18 3. In such other way(s) as the Compact Commission may by Rule
19 specify.

20 H. The Notice of Proposed rulemaking shall include:

21 1. The time, date, and location of the public hearing at which
22 the Compact Commission will hear public comments on the proposed Rule and, if
23 different, the time, date, and location of the meeting where the Compact
24 Commission will consider and vote on the proposed Rule;

25 2. If the hearing is held via telecommunication, video
26 conference, or other means of communication, the Compact Commission shall
27 include the mechanism for access to the hearing in the Notice of Proposed
28 rulemaking;

29 3. The text of the proposed Rule and the reason therefore;

30 4. A request for comments on the proposed Rule from any
31 interested person; and

32 5. The manner in which interested persons may submit written
33 comments.

34 I. All hearings will be recorded. A copy of the recording and all
35 written comments and documents received by the Compact Commission in response
36 to the proposed Rule shall be available to the public.

1 J. Nothing in this Section shall be construed as requiring a separate
2 hearing on each Rule. Rules may be grouped for the convenience of the Compact
3 Commission at hearings required by this Section.

4 K. The Compact Commission shall, by majority vote of all members, take
5 final action on the proposed Rule based on the rulemaking record and the full
6 text of the Rule.

7 1. The Compact Commission may adopt changes to the proposed Rule
8 provided the changes do not enlarge the original purpose of the proposed
9 Rule.

10 2. The Compact Commission shall provide an explanation of the
11 reasons for substantive changes made to the proposed Rule as well as reasons
12 for substantive changes not made that were recommended by commenters.

13 3. The Compact Commission shall determine a reasonable effective
14 date for the Rule. Except for an emergency as provided in Section 10(L), the
15 effective date of the Rule shall be no sooner than 30 days after issuing the
16 notice that it adopted or amended the Rule.

17 L. Upon determination that an emergency exists, the Compact Commission
18 may consider and adopt an emergency Rule with 24 hours' notice, with
19 opportunity to comment, provided that the usual rulemaking procedures
20 provided in the Compact and in this Section shall be retroactively applied to
21 the Rule as soon as reasonably possible, in no event later than ninety
22 (90) days after the effective date of the Rule. For the purposes of this
23 provision, an emergency Rule is one that must be adopted immediately in order
24 to:

- 25 1. Meet an imminent threat to public health, safety, or welfare;
26 2. Prevent a loss of Compact Commission or Member State funds;
27 3. Meet a deadline for the promulgation of a Rule that is
28 established by federal law or rule; or
29 4. Protect public health and safety.

30 M. The Compact Commission or an authorized committee of the Compact
31 Commission may direct revision to a previously adopted Rule for purposes of
32 correcting typographical errors, errors in format, errors in consistency, or
33 grammatical errors. Public notice of any revision shall be posted on the
34 website of the Compact Commission. The revision shall be subject to challenge
35 by any person for a period of thirty (30) days after posting. The revision
36 may be challenged only on grounds that the revision results in a material

1 change to a Rule. A challenge shall be made in writing and delivered to the
2 Compact Commission prior to the end of the notice period. If no challenge is
3 made, the revision will take effect without further action. If the revision
4 is challenged, the revision may not take effect without the approval of the
5 Compact Commission.

6 N. No Member State's rulemaking requirements shall apply under this
7 Compact.

9 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

10 A. Oversight

11 1. The executive and judicial branches of State government in
12 each Member State shall enforce this Compact and take all actions necessary
13 and appropriate to implement this Compact.

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

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

29 B. Default, Technical Assistance, and Termination

30 1. If the Compact Commission determines that a Member State has
31 defaulted in the performance of its obligations or responsibilities under
32 this Compact or the promulgated Rules, the Compact Commission shall provide
33 written notice to the defaulting State. The notice of default shall describe
34 the default, the proposed means of curing the default, and any other action
35 that the Compact Commission may take and shall offer training and specific
36 technical assistance regarding the default.

1 2. The Compact Commission shall provide a copy of the notice of
2 default to the other Member States.

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

10 D. Termination of membership in the Compact shall be imposed only
11 after all other means of securing compliance have been exhausted. Notice of
12 intent to suspend or terminate shall be given by the Compact Commission to
13 the governor, the majority and minority leaders of the defaulting State's
14 legislature, the defaulting State's Licensing Authority, and each of the
15 Member States' Licensing Authority.

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

20 F. Upon the termination of a State's membership from this Compact,
21 that State shall immediately provide notice to all Licensees within that
22 State of such termination. The terminated State shall continue to recognize
23 all Compact Privileges granted pursuant to this Compact for a minimum of six
24 months after the date of said notice of termination.

25 G. The Compact Commission shall not bear any costs related to a State
26 that is found to be in default or that has been terminated from the Compact,
27 unless agreed upon in writing between the Compact Commission and the
28 defaulting State.

29 H. The defaulting State may appeal the action of the Compact
30 Commission by petitioning the U.S. District Court for the District of
31 Columbia or the federal district where the Compact Commission has its
32 principal offices. The prevailing party shall be awarded all costs of such
33 litigation, including reasonable attorney's fees.

34 I. Dispute Resolution

35 1. Upon request by a Member State, the Compact Commission shall
36 attempt to resolve disputes related to the Compact that arise among Member

1 States and between Member and non-Member States.

2 2. The Compact Commission shall promulgate a Rule providing for
3 both mediation and binding dispute resolution for disputes as appropriate.

4 J. Enforcement

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

16 2. A Member State may initiate legal action against the Compact
17 Commission in the U.S. District Court for the District of Columbia or the
18 federal district where the Compact Commission has its principal offices to
19 enforce compliance with the provisions of the Compact and its promulgated
20 Rules. The relief sought may include both injunctive relief and damages. In
21 the event judicial enforcement is necessary, the prevailing party shall be
22 awarded all costs of such litigation, including reasonable attorney's fees.

23 3. No party other than a Member State shall enforce this Compact
24 against the Compact Commission.

25
26 SECTION 12. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

27 A. The Compact shall come into effect on the date on which the Compact
28 statute is enacted into law in the seventh Member State.

29 1. On or after the effective date of the Compact, the Compact
30 Commission shall convene and review the enactment of each of the first seven
31 Member States ("Charter Member States") to determine if the statute enacted
32 by each such Charter Member State is materially different than the model
33 Compact statute.

34 a. A Charter Member State whose enactment is found to be
35 materially different from the model Compact statute shall be entitled to the
36 default process set forth in Section 11.

1 b. If any Member State is later found to be in default, or
2 is terminated, or withdraws from the Compact, the Compact Commission shall
3 remain in existence and the Compact shall remain in effect even if the number
4 of Member States should be less than seven.

5 2. Member States enacting the Compact subsequent to the seven
6 initial Charter Member States shall be subject to the process set forth in
7 Section 8(C)(21) to determine if their enactments are materially different
8 from the model Compact statute and whether they qualify for participation in
9 the Compact.

10 3. All actions taken for the benefit of the Compact Commission
11 or in furtherance of the purposes of the administration of the Compact prior
12 to the effective date of the Compact or the Compact Commission coming into
13 existence shall be considered to be actions of the Compact Commission unless
14 specifically repudiated by the Compact Commission.

15 4. Any State that joins the Compact subsequent to the Compact
16 Commission's initial adoption of the Rules and bylaws shall be subject to the
17 Rules and bylaws as they exist on the date on which the Compact becomes law
18 in that State. Any Rule that has been previously adopted by the Compact
19 Commission shall have the full force and effect of law on the day the Compact
20 becomes law in that State.

21 B. Any Member State may withdraw from this Compact by enacting a
22 statute repealing the same.

23 1. A Member State's withdrawal shall not take effect until 180
24 days after enactment of the repealing statute.

25 2. Withdrawal shall not affect the continuing requirement of the
26 withdrawing State's Licensing Authority to comply with the investigative and
27 Adverse Action reporting requirements of this Compact prior to the effective
28 date of withdrawal.

29 3. Upon the enactment of a statute withdrawing from this
30 Compact, a State shall immediately provide notice of such withdrawal to all
31 Licensees within that State. Notwithstanding any subsequent statutory
32 enactment to the contrary, such withdrawing State shall continue to recognize
33 all Compact Privileges granted pursuant to this Compact for a minimum of 180
34 days after the date of such notice of withdrawal.

35 C. Nothing contained in this Compact shall be construed to invalidate
36 or prevent any licensure agreement or other cooperative arrangement between a

1 Member State and a non-Member State that does not conflict with the
2 provisions of this Compact.

3 D. This Compact may be amended by the Member States. No amendment to
4 this Compact shall become effective and binding upon any Member State until
5 it is enacted into the laws of all Member States.

7 SECTION 13. CONSTRUCTION AND SEVERABILITY

8 A. This Compact and the Compact Commission's rulemaking authority
9 shall be liberally construed so as to effectuate the purposes and the
10 implementation and administration of the Compact. Provisions of the Compact
11 expressly authorizing or requiring the promulgation of Rules shall not be
12 construed to limit the Compact Commission's rulemaking authority solely for
13 those purposes.

14 B. The provisions of this Compact shall be severable and if any
15 phrase, clause, sentence, or provision of this Compact is held by a court of
16 competent jurisdiction to be contrary to the constitution of any Member
17 State, a State seeking participation in the Compact, or of the United States,
18 or the applicability thereof to any government, agency, person, or
19 circumstance is held to be unconstitutional by a court of competent
20 jurisdiction, the validity of the remainder of this Compact and the
21 applicability thereof to any other government, agency, person, or
22 circumstance shall not be affected thereby.

23 C. Notwithstanding Section 13(B), the Compact Commission may deny a
24 State's participation in the Compact or, in accordance with the requirements
25 of Section 11(B), terminate a Member State's participation in the Compact, if
26 it determines that a constitutional requirement of a Member State is a
27 material departure from the Compact. Otherwise, if this Compact shall be held
28 to be contrary to the constitution of any Member State, the Compact shall
29 remain in full force and effect as to the remaining Member States and in full
30 force and effect as to the Member State affected as to all severable matters.

32 SECTION 14. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

33 A. Nothing herein shall prevent or inhibit the enforcement of any
34 other law of a Member State that is not inconsistent with the Compact.

35 B. Any laws, statutes, regulations, or other legal requirements in a
36 Member State in conflict with the Compact are superseded to the extent of the

1 conflict.

2 C. All permissible agreements between the Compact Commission and the
3 Member States are binding in accordance with their terms.

4

5 17-83-402. Administration of compact – Rules.

6 (a) The Arkansas Dietetics Licensing Board is the Dietitian Licensure
7 Compact administrator for this state.

8 (b) The board may adopt rules that are consistent with the compact
9 necessary to implement this subchapter.

10 (c) The board is not required to adopt the rules of the Dietitian
11 Licensure Compact Commission for those rules to be effective in this state.

12

13

14 Referred by Representative L. Johnson

15 Prepared by: JMB/JMB

16

17