

HB317 INTRODUCED



1 HB317
2 AKMKQ7S-1
3 By Representatives Gidley, Paschal, Oliver, Robertson, Starnes
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5 RFD: Boards, Agencies and Commissions
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SYNOPSIS:

This bill would allow the Alabama Board of Examiners for Dietetics/Nutrition Practice to enter into the Dietitian Licensure Compact as a means of providing uniformity in licensing requirements and interstate practice throughout party states.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board of Examiners for Dietetics/Nutrition Practice; to enter into the Dietician Licensure Compact by adopting Chapter 34B of Title 34, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Chapter 34B, commencing with Section 34-34B-1, is added to Title 34, Code of Alabama 1975, to read as follows:

CHAPTER 34B. DIETITIAN LICENSURE COMPACT

§34-34B-1. Purpose.

(a) 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



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the regulatory authority of states to protect public health and safety through the current system of state licensure, while also providing for licensure portability through a compact privilege granted to qualifying professionals.

(b) This compact is designed to achieve the following objectives:

(1) Increase public access to dietetics services.

(2) Provide opportunities for interstate practice by licensed dietitians who meet uniform requirements.

(3) Eliminate the necessity for licenses in multiple states.

(4) Reduce the administrative burden on member states and licensees.

(5) Enhance the states' ability to protect the public's health and safety.

(6) Encourage the cooperation of member states in regulating multistate practice of licensed dietitians.

(7) Support relocating active military members and their spouses.

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

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

§34-34B-2. Definitions.

As used in this compact, the following terms have the following meanings:



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(1) ACEND. The Accreditation Council for Education in Nutrition and Dietetics or its successor organization.

(2) ACTIVE MILITARY MEMBER. Any individual with full-time duty status in the active armed forces of the United States, including members of the National Guard and Reserve.

(3) ADVERSE ACTION. Any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a licensee, including actions against an individual's license or compact privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on a licensure affecting a licensee's authorization to practice, including issuance of a cease and desist action.

(4) ALTERNATIVE PROGRAM. A nondisciplinary monitoring or practice remediation process approved by a licensing authority.

(5) CDR. The Commission on Dietetic Registration or its successor organization.

(6) CHARTER MEMBER STATE. Any member state which enacted this compact by law before the effective date specified in Section 34-34B-12.

(7) COMPACT COMMISSION. The governmental agency whose membership consists of all states that have enacted this compact, which is known as the Dietitian Licensure Compact Commission, as described in Section 34-34B-8, and which shall operate as an instrumentality of the member states.

(8) COMPACT PRIVILEGE. A legal authorization, which is



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85 equivalent to a license, permitting the practice of dietetics
86 in a remote state.

87 (9) CONTINUING EDUCATION. A requirement, as a condition
88 of license renewal, to provide evidence of participation in,
89 and completion of, educational and professional activities
90 relevant to practice or area of work.

91 (10) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.

92 a. Investigative information that a licensing
93 authority, after a preliminary inquiry that includes
94 notification and an opportunity for the subject licensee to
95 respond, if required by state law, has reason to believe is
96 not groundless and, if proved true, would indicate more than a
97 minor infraction.

98 b. Investigative information that indicates that the
99 subject licensee represents an immediate threat to public
100 health and safety regardless of whether he or she has been
101 notified and had an opportunity to respond.

102 (11) DATA SYSTEM. A repository of information about
103 licensees, including, but not limited to, continuing
104 education, examination, licensure, investigative, compact
105 privilege, and adverse action information.

106 (12) ENCUMBERED LICENSE. A license in which an adverse
107 action restricts a licensee's ability to practice dietetics.

108 (13) ENCUMBRANCE. A revocation or suspension of, or any
109 limitation on a licensee's full and unrestricted practice of
110 dietetics by a licensing authority.

111 (14) EXECUTIVE COMMITTEE. A group of delegates elected
112 or appointed to act on behalf of, and within the powers



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granted to them by, this compact and the compact commission.

(15) HOME STATE. The member state that is the licensee's primary state of residence or that has been designated pursuant to Section 34-34B-6.

(16) INVESTIGATIVE INFORMATION. Information, records, and documents received or generated by a licensing authority pursuant to an investigation.

(17) JURISPRUDENCE REQUIREMENT. An assessment of an individual's knowledge of the state laws and rules governing the practice of dietetics in such state.

(18) LICENSE. An authorization from a member state to do one of the following:

a. Engage in the practice of dietetics, including medical nutrition therapy.

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

(19) LICENSEE or LICENSED DIETITIAN. An individual who currently holds a license and who meets all of the requirements outlined in Section 34-34B-4.

(20) LICENSING AUTHORITY. The board or agency of a state, or equivalent, that is responsible for the licensing and regulation of the practice of dietetics.

(21) MEMBER STATE. A state that has enacted the compact.

(22) PRACTICE OF DIETETICS. The synthesis and application of dietetics, primarily for the provision of



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nutrition care services, including medical nutrition therapy, in person or via telehealth, to prevent, manage, or treat diseases or medical conditions and promote wellness.

(23) REGISTERED DIETITIAN. A person who meets all of the following requirements:

a. Has completed applicable education, experience, examination, and recertification requirements approved by CDR.

b. Is credentialed by CDR as a registered dietitian or a registered dietitian nutritionist.

c. Is legally authorized to use the title registered dietitian or registered dietitian nutritionist and the corresponding abbreviations "RD" or "RDN."

(24) REMOTE STATE. A member state other than the home state, where a licensee is exercising or seeking to exercise a compact privilege.

(25) RULE. A regulation adopted by the compact commission that has the force of law.

(26) SINGLE-STATE LICENSE. A license issued by a member state within the issuing state. The term does not include a compact privilege in any other member state.

(27) STATE. Any state, commonwealth, district, or territory of the United States of America.

(28) UNENCUMBERED LICENSE. A license that authorizes a licensee to engage in the full and unrestricted practice of dietetics.

§34-34B-3. State Participation in the Compact.

(a) To participate in the compact, a state must currently license and regulate the practice of dietetics and



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169 have a mechanism in place for receiving and investigating
170 complaints about licensees.

171 (b) A member state shall do all of the following:

172 (1) Participate fully in the compact commission's data
173 system, including using the unique identifier as defined in
174 rules.

175 (2) Notify the compact commission, in compliance with
176 the terms of the compact and rules, of any adverse action or
177 the availability of current significant investigative
178 information regarding a licensee.

(3) Implement or utilize procedures for considering the criminal history record information of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

187 a. A member state must fully implement a criminal
188 history record information requirement, within a timeframe
189 established by rule, which includes receiving the results of
190 the Federal Bureau of Investigation record search and shall
191 use those results in determining compact privilege
192 eligibility.

b. Communication between a member state and the compact
commission or among member states regarding the verification
of eligibility for a compact privilege shall not include any
information received from the Federal Bureau of Investigation



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relating to a federal criminal history record information check performed by a member state.

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

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

(6) Recognize a compact privilege granted to a licensee who meets all of the requirements outlined in Section 34-34B-4 in accordance with the terms of the compact and rules.

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

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

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

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

§34-34B-4. Compact Privilege.



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

(1) The licensee must do one of the following:

a. Hold a valid current registration that gives the applicant the right to use the term "registered dietitian."

b. Complete all of the following:

1. An education program which is either:

(i) A master's degree or doctoral degree that is programatically accredited by ACEND or any other dietetics accrediting agency recognized by the United States Department of Education, which the compact commission may determine by rule, and from a college or university accredited at the time of graduation by the appropriate regional accrediting agency recognized by the Council on Higher Education Accreditation and the United States Department of Education.

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

2. A planned, documented, and supervised practice experience in dietetics that is programmatically accredited by ACEND or any other dietetics accrediting agency recognized by the United States Department of Education which the compact commission may determine by rule and which involves at least 1000 hours of practice experience under the supervision of a



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registered dietitian or a licensed dietitian.

3. Successful completion of either the Registration Examination for Dietitians administered by CDR or a national credentialing examination for dietitians approved by the compact commission by rule; provided, the completion must be no more than five years prior to the date of the licensee's application for initial licensure and accompanied by a period of continuous licensure thereafter, all of which may be further governed by the rules of the compact commission.

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

(3) Notify the compact commission that the licensee is seeking a compact privilege within one or more remote states.

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

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

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

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



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

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

§34-34B-5. Obtaining a New Home State License Based on a Compact Privilege.

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

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

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

(2) Upon receipt of an application for obtaining a new home state license by virtue of a compact privilege, the new home state shall verify that the licensee meets the criteria in Section 34-34B-4 via the data system and require that the



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309 licensee complete all of the following:

310 a. Federal Bureau of Investigation fingerprint-based
311 criminal history record information check.

312 b. Any other criminal history record information
313 required by the new home state.

314 c. Any jurisprudence requirements of the new home
315 state.

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

320 (4) Notwithstanding any other provision of this
321 compact, if the licensee cannot meet the criteria in Section
322 34-34B-4, the new home state may apply its requirements for
323 issuing a new single-state license.

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

326 (c) If a licensee changes his or her state of residence
327 by moving from a member state to a non-member state, or from a
328 non-member state to a member state, the state criteria shall
329 apply for issuance of a single state license in the new state.

330 (d) Nothing in this compact shall interfere with a
331 licensee's ability to hold a single-state license in multiple
332 states; however, for the purposes of this compact, a licensee
333 shall have only one home state license.

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



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§34-34B-6. Active Military Members or Their Spouses.

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

§34-34B-7. Adverse Actions.

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

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

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

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

(c) For purposes of taking adverse action, the home



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

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

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

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

(g) Joint investigations.

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

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any



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393 joint investigation initiated under the compact.

394 (h) If adverse action is taken by the home state
395 against a licensee's home state license resulting in an
396 encumbrance on the home state license, the licensee's compact
397 privilege in all other member states shall be revoked until
398 all encumbrances have been removed from the home state
399 license. All home state disciplinary orders that impose
400 adverse action against a licensee shall include a statement
401 that the licensee's compact privileges are revoked in all
402 member states during the pendency of the order.

403 (i) Once an encumbered license in the home state is
404 restored to an unencumbered license, as certified by the home
405 state's licensing authority, the licensee must meet the
406 requirements of Section 34-34B-4(a) and follow the
407 administrative requirements to reapply to obtain a compact
408 privilege in any remote state.

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

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

416 §34-34B-8. Establishment of the Dietitian Licensure
417 Compact Commission.

418 (a) The compact member states hereby create and
419 establish a joint governmental agency whose membership
420 consists of all member states that have enacted the compact



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known as the Dietitian Licensure Compact Commission. The compact commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The compact commission shall come into existence on or after the effective date of the compact as set forth in Section 34-34B-12.

(b) Membership, voting, and meetings.

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

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

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

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

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

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

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

(8) The compact commission shall meet at least once during each calendar year. Additional meetings may be held as



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set forth in the bylaws. The compact commission may meet in person or by telecommunication, video conference, or other means of communication.

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

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

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

(3) Establish and amend rules and bylaws.

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

(5) Meet and take action consistent with the provisions of this compact, the compact commission's rules, and the bylaws.

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

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

(8) Purchase and maintain insurance and bonds.

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

(10) Conduct an annual financial review.



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477 (11) Hire employees, elect or appoint officers, fix
478 compensation, define duties, grant those individuals
479 appropriate authority to carry out the purposes of the
480 compact, and establish the compact commission's personnel
481 policies and programs relating to conflicts of interest,
482 qualifications of personnel, and other related personnel
483 matters.

484 (12) Assess and collect fees.

485 (13) Accept any and all appropriate donations, grants
486 of money, other sources of revenue, equipment, supplies,
487 materials, services, and gifts, and receive, utilize, and
488 dispose of the same; provided, that at all times the compact
489 commission shall avoid any actual or appearance of impropriety
490 or conflict of interest.

491 (14) Lease, purchase, retain, own, hold, improve, or
492 use any property, real, personal, or mixed, or any undivided
493 interest in property.

494 (15) Sell, convey, mortgage, pledge, lease, exchange,
495 abandon, or otherwise dispose of any property real, personal,
496 or mixed.

497 (16) Establish a budget and make expenditures.

498 (17) Borrow money.

499 (18) Appoint committees, including standing committees,
500 composed of members, state regulators, state legislators or
501 his or her representatives, consumer representatives, and
502 other interested persons as may be designated in this compact
503 or the bylaws.

504 (19) Provide and receive information from, and



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505 cooperate with, law enforcement agencies.

506 (20) Establish and elect an executive committee,
507 including a chair and a vice chair.

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

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

513 (d) The Executive Committee.

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

518 a. Oversee the day-to-day activities of the
519 administration of the compact, including enforcement and
520 compliance with the provisions of the compact, its rules and
521 bylaws, and other duties as deemed necessary.

522 b. Recommend to the compact commission changes to the
523 rules or bylaws, changes to this compact legislation, fees
524 charged to compact member states, fees charged to licensees,
525 and other fees.

526 c. Ensure compact administration services are
527 appropriately provided, including by contract.

528 d. Prepare and recommend the budget.

529 e. Maintain financial records on behalf of the compact
530 commission.

531 f. Monitor compact compliance of member states and
532 provide compliance reports to the compact commission.



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533 g. Establish additional committees as necessary.

534 h. Exercise the powers and duties of the compact
535 commission during the interim between compact commission
536 meetings, except for adopting or amending rules, adopting or
537 amending bylaws, and exercising any other powers and duties
538 expressly reserved to the compact commission by rule or bylaw.

539 i. Other duties as provided in the rules or bylaws of
540 the compact commission.

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

543 a. The chair and vice chair of the compact commission
544 shall be voting members of the executive committee.

545 b. Five voting members from the current membership of
546 the compact commission, elected by the compact commission.

547 c. One ex officio, nonvoting member from a recognized
548 professional association representing dietitians.

549 d. One ex officio, nonvoting member from a recognized
550 national credentialing organization for dietitians.

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

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

556 a. Executive committee meetings shall be open to the
557 public, except that the executive committee may meet in a
558 closed, nonpublic meeting as provided in subdivision (f)(2).

559 b. The executive committee shall give 30-days' notice
560 of its meetings, posted on the website of the compact



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commission and as determined to provide notice to persons with an interest in the business of the compact commission.

c. The executive committee may hold a special meeting in accordance with paragraph (f)(1)b.

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

(f) Meetings of the Compact Commission.

(1) All meetings shall be open to the public, except that the compact commission may meet in a closed, non-public meeting as provided in subdivision (2).

a. Public notice for all meetings of the full compact commission shall be given in the same manner as required under the rulemaking provisions in Section 34-34B-10, except that the compact commission may hold a special meeting as provided in paragraph (f)(1)b.

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

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



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a. Noncompliance of a member state with its obligations under the compact.

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

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

d. Current, threatened, or reasonably anticipated litigation.

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

f. Accusing any individual of a crime or formally censuring any individual.

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

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

i. Investigative records compiled for law enforcement purposes.

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

k. Matters specifically exempted from disclosure by federal or member state law.



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617 1. Other matters as specified in the rules of the
618 compact commission.

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

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

633 (g) Financing of the compact commission.

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

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

640 (3) The compact commission may levy on and collect an
641 annual assessment from each member state and impose fees on
642 licensees of member states to whom it grants a compact
643 privilege to cover the cost of the operations and activities
644 of the compact commission and its staff, which must, in a



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total amount, be sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the compact commission shall adopt by rule.

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

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

(h) Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the compact commission shall be immune from suit and liability, both personally and in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the individual against whom



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the claim is made had a reasonable basis for believing occurred within the scope of compact commission employment, duties, or responsibilities; provided, that nothing in this subdivision shall be construed to protect any individual from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that individual. The procurement of insurance of any type by the compact commission shall not in any way compromise or limit the immunity granted under this subsection.

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

(3) The compact commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the compact commission for the amount of any settlement or judgment obtained against that individual



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arising out of any actual or alleged act, error, or omission that occurred within the scope of compact commission employment, duties, or responsibilities, or that such individual had a reasonable basis for believing occurred within the scope of compact commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that individual.

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

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

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

§34-34B-9. Data System.

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

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



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

(1) Identifying information.

(2) Licensure data.

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

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

(5) Any denial of application for licensure, and the reason or reasons for the denial.

(6) The presence of current significant investigative information.

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

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

(e) Current significant investigative information



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pertaining to a licensee in any member state will only be available to other member states.

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

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

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

§34-34B-10. Rulemaking.

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

(b) The rules of the compact commission shall have the force of law in each member state; provided, however, that



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785 where the rules conflict with the laws or rules of a member
786 state that relate to the procedures, actions, and processes a
787 licensed dietitian is permitted to undertake in that state and
788 the circumstances under which he or she may do so, as held by
789 a court of competent jurisdiction, the rules of the compact
790 commission shall be ineffective in that state to the extent of
791 the conflict.

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

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

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

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

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



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813 of proposed rulemaking:

814 (1) On the website of the compact commission or other
815 publicly accessible platform.

816 (2) To individuals who have requested notice of the
817 compact commission's notices of proposed rulemaking.

818 (3) In such other ways as the compact commission may
819 specify by rule.

820 (h) The notice of proposed rulemaking shall include all
821 of the following:

822 (1) The time, date, and location of the public hearing
823 at which the compact commission will hear public comments on
824 the proposed rule and, if different, the time, date, and
825 location of the meeting where the compact commission will
826 consider and vote on the proposed rule.

827 (2) If the hearing is held via telecommunication, video
828 conference, or other means of communication, the compact
829 commission shall include the mechanism for access to the
830 hearing in the notice of proposed rulemaking.

831 (3) The text of the proposed rule and the reason
832 supporting it.

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

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

837 (i) All hearings shall be recorded. A copy of the
838 recording and all written comments and documents received by
839 the compact commission in response to the proposed rule shall
840 be available to the public.



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

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

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

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

(3) The compact commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (1), the effective date of the rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the rule.

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



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

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

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

(4) Protect public health and safety.

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

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

§34-34B-11 Oversight, Dispute Resolution, and Enforcement.

(a) Oversight.

(1) The executive and judicial branches of state



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government in each member state shall enforce this compact and take all actions necessary and appropriate to implement this compact.

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

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

(b) Default, technical assistance, and termination.

(1) If the compact commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the compact commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, any other



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925 action that the compact commission may take, and shall offer
926 training and specific technical assistance regarding the
927 default.

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

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

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

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

949 (f) Upon the termination of a state's membership from
950 this compact, that state shall immediately provide notice to
951 all licensees within that state of such termination. The
952 terminated state shall continue to recognize all compact



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953 privileges granted pursuant to this compact for a minimum of
954 six months after the date of the notice of termination.

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

960 (h) The defaulting state may appeal the action of the
961 compact commission by petitioning the United States District
962 Court for the District of Columbia or the federal district
963 where the compact commission has its principal offices. The
964 prevailing party shall be awarded all costs of litigation,
965 including reasonable attorney fees.

966 (i) Dispute resolution.

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

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

974 (j) Enforcement.

975 (1) By super majority vote, the compact commission may
976 initiate legal action against a member state in default in the
977 United States District Court for the District of Columbia or
978 the federal district where the compact commission has its
979 principal offices to enforce compliance with the provisions of
980 the compact and its adopted rules. The relief sought may



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include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the compact commission. The compact commission may pursue any other remedies available under federal or the defaulting member state's law.

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

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

§34-34B-12. Effective Date, Withdrawal, and Amendment.

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

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



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1009 a. A charter member state whose enactment is found to
1010 be materially different from the model compact statute shall
1011 be entitled to the default process set forth in Section
1012 34-34B-11.

1013 b. If any member state is later found to be in default,
1014 is terminated, or withdraws from the compact, the compact
1015 commission shall remain in existence and the compact shall
1016 remain in effect even if the number of member states should be
1017 less than seven.

1018 (2) Member states enacting the compact subsequent to
1019 the seven initial charter member states shall be subject to
1020 the process set forth in Section 34-34B-8(c)(21) to determine
1021 if their enactments are materially different from the model
1022 compact statute and whether they qualify for participation in
1023 the compact.

1024 (3) All actions taken for the benefit of the compact
1025 commission or in furtherance of the purposes of the
1026 administration of the compact prior to the effective date of
1027 the compact or the compact commission coming into existence
1028 shall be considered to be actions of the compact commission
1029 unless specifically repudiated by the compact commission.

1030 (4) Any state that joins the compact subsequent to the
1031 compact commission's initial adoption of the rules and bylaws
1032 shall be subject to the rules and bylaws as they exist on the
1033 date on which the compact becomes law in that state. Any rule
1034 that has been previously adopted by the compact commission
1035 shall have the full force and effect of law on the day the
1036 compact becomes law in that state.



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1037 (b) Any member state may withdraw from this compact by
1038 enacting a statute to repeal it.

1039 (1) A member state's withdrawal shall not take effect
1040 until 180 days after enactment of the repealing statute.

1041 (2) Withdrawal shall not affect the continuing
1042 requirement of the withdrawing state's licensing authority to
1043 comply with the investigative and adverse action reporting
1044 requirements of this compact prior to the effective date of
1045 withdrawal.

1046 (3) Upon the enactment of a state withdrawing from this
1047 compact, a state shall immediately provide notice of the
1048 withdrawal to all licensees within that state. Notwithstanding
1049 any subsequent statutory enactment to the contrary, the
1050 withdrawing state shall continue to recognize all compact
1051 privileges granted pursuant to this compact for a minimum of
1052 180 days after the date of such notice of withdrawal.

1053 (c) Nothing contained in this compact shall be
1054 construed to invalidate or prevent any licensure agreement or
1055 other cooperative arrangement between a member state and a
1056 non-member state that does not conflict with the provisions of
1057 this compact.

1058 (d) This compact may be amended by the member states.
1059 No amendment to this compact shall become effective and
1060 binding upon any member state until it is enacted into the
1061 laws of all member states.

1062 §34-34B-13. Construction and Severability.

1063 (a) This compact and the compact commission's
1064 rulemaking authority shall be liberally construed so as to



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effectuate the purposes, implementation, and administration of the compact. Provisions of the compact expressly authorizing or requiring the adoption of rules shall not be construed to limit the compact commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability to any other government, agency, person, or circumstance shall not be affected.

(c) Notwithstanding subsection (b), the compact commission may deny a state's participation in the compact or, in accordance with the requirements of Section 34-34B-11(b), terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

§34-34B-14. Consistent Effect and Conflict With Other State Laws.



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1093 (a) Nothing in this compact shall prevent or inhibit
1094 the enforcement of any other law of a member state that is not
1095 inconsistent with the compact.

1096 (b) Any laws, statutes, rules, or other legal
1097 requirements in a member state in conflict with the compact
1098 are superseded to the extent of the conflict.

1099 (c) All permissible agreements between the compact
1100 commission and the member states are binding in accordance
1101 with their terms.

1102 §34-34B-15. Judicial Proceedings by Individuals.

1103 Except as to judicial proceedings for the enforcement
1104 of this compact among member states, individuals may pursue
1105 judicial proceedings related to this compact in any Alabama
1106 state or federal court that would otherwise have competent
1107 jurisdiction.

1108 Section 2. This act shall become effective on October
1109 1, 2024.