ASSEMBLY, No. 3008

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Burlington and Camden)

SYNOPSIS

"Lactation Consultants Licensing Act."

CURRENT VERSION OF TEXT

As introduced.

AN ACT providing for the licensing of lactation consultants and supplementing Title 45 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Lactation Consultants Licensing Act."

2. The Legislature finds and declares that the application of specific knowledge and skill relating to breastfeeding is important to the health of mothers and babies, and acknowledges further that the rendering of sound lactation care and services in hospitals, physician practices, private homes and other settings requires trained and competent professionals. It is the purpose of this act to protect the health, safety and welfare of the public by providing for the licensure and regulation of the activities of persons engaged in lactation care and services.

3. As used in this act:

"Board" means the New Jersey State Board of Medical Examiners.

“Breastfeeding education and support services” means activities whose purpose is to educate and support mothers and children in meeting their breastfeeding goals, including providing general breastfeeding education and encouragement, sharing personal experiences, and giving nonmedical advice. “Breastfeeding education and support services” may be performed by licensed or unlicensed individuals, including lactation consultants, counselors and educators.

“Committee” means the Lactation Consultant Advisory Committee established pursuant to section 4 of this act.

“International Board Certified Lactation Consultant (IBCLC)” means an individual who holds current certification from the International Board of Lactation Consultant Examiners (IBLCE) after demonstrating the appropriate education, knowledge, and experience necessary for independent clinical practice.

“International Board of Lactation Consultant Examiners (IBLCE)” means the international organization that certifies IBCLCs and is independently accredited by the National Commission of Certifying Agencies.

"Lactation care and services" means the clinical application of scientific principles and a multidisciplinary body of evidence to provide evaluation, problem identification, treatment, education, and consultation, regarding breastfeeding and breast milk feeding to client-defined families. Lactation care and services include but are not limited to:

(1) lactation assessment through the systematic collection of subjective and objective data;

(2) analysis of data;

(3) development of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider;

(4) provision of lactation education to parents and health care providers; and

(5) the recommendation and use of assistive devices.

"Lactation consultant" means a person who is licensed to provide lactation care and services pursuant to the provisions of this act.

4. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Medical Examiners, the Lactation Consultant Advisory Committee. The committee shall consist of seven members who are residents of the State, who shall serve as consultants to the board. The committee shall include one public member and one physician who is licensed pursuant to chapter 9 of Title 45 of the Revised Statutes. The remaining five members shall be, except for the members first appointed, licensed lactation consultants under the provisions of this act and shall have been actively engaged in providing lactation care and services in the State, as an IBCLC, for at least five years immediately preceding their appointment.

The Governor shall appoint the members of the committee. Each member shall be appointed for a term of three years, except that of the lactation consultant members first appointed, two shall serve for a term of three years, two shall serve for a term of two years and one shall serve for a term of one year. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided by the original appointment. No member of the committee may serve more than two successive terms in addition to any unexpired term to which the member has been appointed.

5. Notwithstanding the provisions of section 2 of P.L.1977, c.285 (C.45:1-2.5) or any other law to the contrary, the members of the committee shall serve without compensation, and shall not be entitled to receive any pension or health benefits based upon their service as members of the committee, but shall be reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

6. The committee shall organize within 30 days after the appointment of its members and shall annually elect from among its members a chairperson and vice-chairperson, and a secretary who need not be a member of the committee. The committee shall meet twice a year and may hold additional meetings as necessary to

discharge its duties. A majority of the committee membership shall constitute a quorum.

7. The committee shall:

a. review the qualifications of applicants for licensure;

b. adopt a code of ethics;

c. insure the proper conduct and standards of examinations;

d. issue and renew biennial licenses for lactation consultants pursuant to this act;

e. refuse to admit a person to an examination or refuse to issue or suspend, revoke, or fail to renew the license of a lactation consultant pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

f. maintain a record of every lactation consultant licensed in this State, their place of business, place of residence, and the date and number of their license;

g. prescribe or change the charges for examinations, licenses, renewals, and other services it performs pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.), and set the passing score on any examination it adopts as a licensure examination;

h. establish rules and regulations with respect to clinical training prerequisites and continuing education requirements; and

i. adopt and promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

8. No person shall provide lactation care and services, on either a compensated or uncompensated basis, hold themselves out to the public as being authorized to provide lactation care and services, or use any title or description stating or implying that the person is a lactation consultant who is licensed to provide lactation care and services, unless the person holds a valid license pursuant to this act to practice as a lactation consultant in this State, except nothing in this act shall be construed to prohibit:

a. a person who is licensed to practice under any law, or who is an accredited member or volunteer belonging to another profession or occupation, from providing breastfeeding education and support services for which that person is licensed, regulated, accredited, or certified;

b. a student who is enrolled in a school or post-graduate course of lactation care and services, recognized by the committee, or who is enrolled in a lactation consultant credentialing pathway, approved by the committee, from performing activities which are necessary to the student's course of study;

c. a peer counselor within the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC) from providing services that are within the peer counselor’s scope of practice;

d. a nonresident IBCLC with a certificate from the IBLCE from providing lactation care and services in this State for up to five days per calendar year without licensure or up to 30 days per calendar year with licensure from another state if the requirements for licensure in that other state are substantially equal to the requirements contained in this act, as determined by the committee; and

e. a medical student, medical resident, or nursing student from providing breastfeeding education and support services which are necessary to the student's course of study.

Nothing in this act shall be construed to prohibit, or reduce the ability of, a physician, nurse, or other medical professional to provide lactation services that are within their scope of practice.

9. To be eligible to be licensed as a lactation consultant, an applicant shall fulfill the following requirements:

a. be at least 21 years of age;

b. be of good moral character; and

c. (1) meet the international education and clinical standards established for IBCLCs by the IBLCE, or other equivalent educational and clinical prerequisites, and satisfy national testing prerequisites, as approved by the committee; and

(2) provide proof of successful completion of the IBLCE examination or other equivalent examination as approved by the committee.

10. The committee shall issue a license to any applicant who, in the opinion of the committee, has satisfactorily met all the requirements of this act.

All licenses shall be issued for a two-year period upon the payment of the licensure fee prescribed by the committee, and shall be renewed upon filing of a renewal application, the payment of a licensure fee, and presentation of satisfactory evidence that the renewal applicant has successfully completed an IBLCE examination or another equivalent examination approved by the committee, or any continuing education requirements prescribed by the committee by regulation. However, such license shall expire before the end of the two-year period if the certification granted to the lactation consultant by the IBLCE, or by any other equivalent national testing service approved by the committee, expires before the end of the license period.

11. Upon payment to the committee of a fee and the submission of a written application on forms provided by it, the committee shall license without examination a lactation consultant who is licensed or registered by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State.

12. No person, business entity or its employees, agents, or representatives shall use the titles “lactation consultant,” “lactation specialist,” “breastfeeding consultant,” or “breastfeeding specialist” unless licensed to provide lactation care and services under the provisions of this act.

13. The board, in consultation with the committee, shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

14. This act shall take effect immediately, except that section 8 of this act shall take effect one year after the date of enactment.

STATEMENT

This bill which is designated the “Lactation Consultants Licensing Act,” provides for the licensure of lactation consultants in this State.

The bill establishes a seven-member Lactation Consultant Advisory Committee (hereinafter referred to as “the committee”), in the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Medical Examiners, to consult with the board on the licensure of persons providing lactation care and services.

The committee would consist of five licensed lactation consultants who have been actively engaged in providing lactation care and services in the State as an International Board Certified Lactation Consultant (IBCLC) for at least five years immediately preceding their appointment to the committee, one public member, appointed by the Governor, and one licensed physician. The members of the committee are to serve without compensation but be reimbursed for expenses and provided with office and meeting facilities.

Under the provisions of the bill, “lactation care and services” means the clinical application of scientific principles and a multidisciplinary body of evidence to provide evaluation, problem identification, treatment, education and consultation regarding breastfeeding and breast milk feeding to client-defined families, and “breastfeeding education and support services” means activities whose purpose is to educate and support mothers and children in meeting their breastfeeding goals including providing general breastfeeding education and encouragement, sharing personal experiences, and giving nonmedical advice.

The bill requires an applicant for licensure as a lactation consultant to be at least 21 years old, of good moral character, and to fulfill the following requirements: meet the international

education and clinical standards established for IBCLCs by the International Board of Lactation Consultant Examiners (IBLCE) or other equivalent educational and clinical prerequisites as approved by the committee; and provide proof of successful completion of the IBLCE examination or other equivalent examination as approved by the committee.

The bill prohibits any person from providing lactation care and services in this State on either a compensated or uncompensated basis, holding themselves out to the public as being authorized to provide lactation care or services, or use any title or description stating or implying that the person is a lactation consultant licensed to provide lactation care and services unless that person holds a valid license. The provisions of the bill do not prohibit: persons licensed to practice under any law or who are accredited members or volunteers of another profession or occupation from providing breastfeeding education and support services for which the person is licensed, regulated, accredited, or certified; students enrolled in a school or post-graduate course of lactation care and services, recognized by the committee, or who are enrolled in a lactation consultant credentialing pathway, approved by the committee, from performing activities necessary to the student's course of study; a peer counselor within the federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) from providing services that are within the counselor's scope of practice; nonresident IBCLCs with a certificate from the IBLCE from providing lactation care and services in this State for up to five days per calendar year without licensure or up to 30 days per calendar year with licensure from another state if the requirements for licensure in that other state are substantially equal to the requirements contained in the bill, as determined by the committee; and a medical student, medical resident, or nursing student from providing breastfeeding education and support services which are necessary to the student's course of study.

The bill provides for the licensure, without examination, of lactation consultants who have been licensed or registered in another state with standards substantially equivalent to those of this State.