

SENATE, No. 2152

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

“Lactation Consultants Licensing Act.”

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** providing for the licensing of lactation consultants and
2 supplementing Title 45 of the Revised.

3

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

6

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

9

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

19

20 3. As used in this act:

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

23 "Breastfeeding education and support services" means activities
24 whose purpose is to educate and support mothers and children in
25 meeting their breastfeeding goals, including providing general
26 breastfeeding education and encouragement, sharing personal
27 experiences, and giving nonmedical advice. "Breastfeeding
28 education and support services" may be performed by licensed or
29 unlicensed individuals, including lactation consultants, counselors
30 and educators.

31 "Committee" means the Lactation Consultant Advisory
32 Committee established pursuant to section 4 of this act.

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

38 "International Board of Lactation Consultant Examiners
39 (IBLCE)" means the international organization that certifies
40 IBCLCs and is independently accredited by the National
41 Commission of Certifying Agencies.

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

- 1 (1) lactation assessment through the systematic collection of
- 2 subjective and objective data;
- 3 (2) analysis of data;
- 4 (3) development of a lactation care plan with demonstration and
- 5 instruction to parents and communication to the primary health care
- 6 provider;
- 7 (4) provision of lactation education to parents and health care
- 8 providers; and
- 9 (5) the recommendation and use of assistive devices.

10 "Lactation consultant" means a person who is licensed to provide

11 lactation care and services pursuant to the provisions of this act.

12

13 4. There is created within the Division of Consumer Affairs in

14 the Department of Law and Public Safety, under the State Board of

15 Medical Examiners, the Lactation Consultant Advisory Committee.

16 The committee shall consist of seven members who are residents of

17 the State, who shall serve as consultants to the board. The

18 committee shall include one public member and one physician who

19 is licensed pursuant to chapter 9 of Title 45 of the Revised Statutes.

20 The remaining five members shall be, except for the members first

21 appointed, licensed lactation consultants under the provisions of

22 this act and shall have been actively engaged in providing lactation

23 care and services in the State, as an IBCLC, for at least five years

24 immediately preceding their appointment.

25 The Governor shall appoint the members of the committee. Each

26 member shall be appointed for a term of three years, except that of

27 the lactation consultant members first appointed, two shall serve for

28 a term of three years, two shall serve for a term of two years and

29 one shall serve for a term of one year. Any vacancy in the

30 membership of the committee shall be filled for the unexpired term

31 in the manner provided by the original appointment. No member of

32 the committee may serve more than two successive terms in

33 addition to any unexpired term to which the member has been

34 appointed.

35

36 5. Notwithstanding the provisions of section 2 of P.L.1977,

37 c.285 (C.45:1-2.5) or any other law to the contrary, the members of

38 the committee shall serve without compensation, and shall not be

39 entitled to receive any pension or health benefits based upon their

40 service as members of the committee, but shall be reimbursed for

41 expenses and provided with office and meeting facilities pursuant to

42 section 2 of P.L.1977, c.285 (C.45:1-2.5).

43

44 6. The committee shall organize within 30 days after the

45 appointment of its members and shall annually elect from among its

46 members a chairperson and vice-chairperson, and a secretary who

47 need not be a member of the committee. The committee shall meet

48 twice a year and may hold additional meetings as necessary to

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

3

4 7. The committee shall:

5 a. review the qualifications of applicants for licensure;

6 b. adopt a code of ethics;

7 c. insure the proper conduct and standards of examinations;

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

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

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

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

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

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

26

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

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

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

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

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

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

11 Nothing in this act shall be construed to prohibit, or reduce the
12 ability of, a physician, nurse, or other medical professional to
13 provide lactation services that are within their scope of practice.
14

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

17 a. be at least 21 years of age;

18 b. be of good moral character; and

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

23 (2) provide proof of successful completion of the IBLCE
24 examination or other equivalent examination as approved by the
25 committee.
26

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

30 All licenses shall be issued for a two-year period upon the
31 payment of the licensure fee prescribed by the committee, and shall
32 be renewed upon filing of a renewal application, the payment of a
33 licensure fee, and presentation of satisfactory evidence that the
34 renewal applicant has successfully completed an IBLCE
35 examination or another equivalent examination approved by the
36 committee, or any continuing education requirements prescribed by
37 the committee by regulation. However, such license shall expire
38 before the end of the two-year period if the certification granted to
39 the lactation consultant by the IBLCE, or by any other equivalent
40 national testing service approved by the committee, expires before
41 the end of the license period.
42

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

1 Lactation Consultant Examiners (IBLCE) or other equivalent
2 educational and clinical prerequisites as approved by the committee;
3 and provide proof of successful completion of the IBLCE examination
4 or other equivalent examination as approved by the committee.

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

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