

House Bill 649 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43rd, Clark of the 101st, Knight of the 130th, Jones of the 53rd, Stephenson of the 90th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to require licensure of lactation consultants; to provide for a short title; to
3 provide for legislative findings; to provide for definitions; to provide for an advisory group;
4 to provide for licensure application and qualifications; to provide for license renewal and
5 revocation; to provide for sanctions; to provide for statutory construction; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
10 is amended by adding a new chapter to read as follows:

11 "CHAPTER 22A

12 43-22A-1.

13 This chapter shall be known and may be cited as the 'Georgia Lactation Consultant Practice
14 Act.'

15 43-22A-2.

16 The General Assembly acknowledges that the application of specific knowledge and skills
17 relating to breastfeeding is important to the health of mothers and babies and acknowledges
18 further that the rendering of sound lactation care and services in hospitals, physician
19 practices, private homes, and other settings requires trained and competent professionals.
20 It is declared, therefore, to be the purpose of this chapter to protect the health, safety, and
21 welfare of the public by providing for the licensure and regulation of the activities of
22 persons engaged in lactation care and services.

23 43-22A-3.

24 As used in this chapter, the term:

25 (1) 'Advisory group' means the group appointed pursuant to Code Section 43-22A-4.

26 (2) 'Applicant' means any person seeking a license under this chapter.

27 (3) 'International Board Certified Lactation Consultant (IBCLC)' means a person who
 28 holds current certification from the International Board of Lactation Consultant
 29 Examiners (IBLCE) after demonstrating the appropriate education, knowledge, and
 30 experience necessary for independent clinical practice.

31 (4) 'International Board of Lactation Consultant Examiners (IBLCE)' means the
 32 international organization that certifies IBCLCs and is independently accredited by the
 33 National Commission of Certifying Agencies.

34 (5) 'Lactation care and services' means the clinical application of scientific principles and
 35 a multidisciplinary body of evidence for evaluation, problem identification, treatment,
 36 education, and consultation to childbearing families regarding lactation care and services.

37 Lactation care and services shall include, but not be limited to:

38 (A) Lactation assessment through the systematic collection of subjective and objective
 39 data;

40 (B) Analysis of data and creation of a lactation care plan;

41 (C) Implementation of a lactation care plan with demonstration and instruction to
 42 parents and communication to the primary health care provider;

43 (D) Evaluation of outcomes;

44 (E) Provision of lactation education to parents and health care providers; and

45 (F) The recommendation and use of assistive devices.

46 (6) 'Lactation consultant' means:

47 (A) A person duly licensed under this chapter to practice lactation care and services;
 48 or

49 (B) A health care professional duly licensed pursuant to such health care professional's
 50 licensing requirements to perform lactation care and services who is also an IBCLC in
 51 good standing with the IBLCE, or its successor organization; provided, however, that
 52 such health care professional shall not be deemed to be licensed under this chapter nor
 53 be entitled to use the title 'licensed lactation consultant' or 'licensed L.C.' without having
 54 met the requirements of Code Section 43-22A-7.

55 (7) 'License' means a license to practice as a lactation consultant pursuant to this chapter.

56 (8) 'Office' means the office of the Secretary of State.

57 (9) 'Practice' means rendering or offering to render any lactation care and services to any
 58 individual, family, or group of individuals.

59 (10) 'Secretary' means the Secretary of State or his or her designee.

60 43-22A-4.

61 (a) There is created within the office a Lactation Consultant Advisory Group which shall
62 consist of five members.

63 (b) The Secretary shall appoint all members of the advisory group. The advisory group
64 shall consist of persons familiar with the practice of lactation care and services to provide
65 the Secretary with expertise and assistance in carrying out his or her duties pursuant to this
66 chapter.

67 (c) The Secretary shall appoint members of the advisory group to serve for terms of four
68 years. The Secretary shall appoint four members who are lactation consultants in this state
69 and one member who is a consumer.

70 (d) Members shall serve without compensation.

71 (e) Members may serve consecutive terms at the will of the Secretary. Any vacancy shall
72 be filled in the same manner as the regular appointments. The Secretary may remove
73 members of the advisory group for incompetence, neglect of duty, unprofessional conduct,
74 conviction of any felony, failure to meet the qualifications of this chapter, or committing
75 any act prohibited by this chapter.

76 43-22A-5.

77 (a) The advisory group shall meet at least once per year or as otherwise called by the
78 Secretary.

79 (b) The Secretary shall consult with the advisory group prior to setting or changing fees
80 as provided for in this chapter.

81 (c) The advisory group may facilitate the development of materials that the Secretary may
82 utilize to educate the public concerning lactation consultant licensure, the benefits of
83 lactation care and services, and utilization of lactation care and services by individuals and
84 in facilities or institutional settings.

85 (d) The advisory group may act as a facilitator of state-wide dissemination of information
86 between lactation consultants, the International Board of Lactation Consultant Examiners
87 or its successor organization, and the Secretary.

88 (e) The advisory group shall provide analysis of disciplinary actions taken, appeals and
89 denials, and revocation of licenses at least once per year.

90 (f) The Secretary shall seek the advice of the advisory group for issues related to lactation
91 care and services.

92 43-22A-6.

93 The Secretary may grant, upon application and payment of proper fees, a license without
94 examination to a person who, at the time of application, either:

95 (1) Holds a valid license to practice lactation care and services issued by another state,
96 political territory, or jurisdiction acceptable to the Secretary if, in the Secretary's opinion,
97 the requirements for that license are substantially equal to or greater than the
98 requirements of this chapter; or

99 (2) Presents evidence satisfactory to the Secretary that the applicant is an IBCLC in good
100 standing with the IBLCE, or its successor organization.

101 43-22A-7.

102 Except as provided in paragraph (4) of this Code section, each applicant for a license as a
103 lactation consultant shall be at least 18 years of age, shall have submitted a completed
104 application upon a form and in such manner as the Secretary prescribes, accompanied by
105 applicable fees, and shall be in compliance with the following requirements:

106 (1) Meeting the international education and clinical standards established for IBCLCs
107 by the IBLCE, or its successor organization;

108 (2) Providing proof of successful completion of the IBLCE examination or the
109 examination of any successor organization;

110 (3) Having satisfactory results from a criminal background check report conducted by
111 the Georgia Crime Information Center and the Federal Bureau of Investigation, as
112 determined by the Secretary. Application for a license under this Code section shall
113 constitute express consent and authorization for the Secretary to perform a criminal
114 background check. Each applicant who submits an application to the Secretary for
115 licensure agrees to provide the Secretary with any and all information necessary to run
116 a criminal background check, including, but not limited to, classifiable sets of
117 fingerprints. The applicant shall be responsible for all fees associated with the
118 performance of such background check; and

119 (4) Completing such other requirements as may be prescribed by the Secretary.

120 43-22A-8.

121 After evaluation of an application and other evidence submitted, the Secretary shall notify
122 each applicant that the application and evidence submitted are satisfactory and accepted or
123 unsatisfactory and rejected. If rejected, the notice shall state the reasons for the rejection.

124 43-22A-9.

125 (a) A license issued by the Secretary is the property of the Secretary and must be
126 surrendered on demand.

127 (b) The licensee shall display the license in an appropriate and public manner.

128 (c) The licensee shall inform the Secretary of any change of address.

129 (d) The license shall be renewed biennially if the licensee is not in violation of this chapter
 130 at the time of application for renewal and if the applicant fulfills current requirements of
 131 continuing education as established by the Secretary.

132 (e) Each person licensed under this chapter is responsible for renewing his or her license
 133 before the expiration date.

134 (f) Under procedures and conditions established by the Secretary, a licensee may request
 135 that his or her license be declared inactive. The licensee may apply for active status at any
 136 time, and upon meeting the conditions set by the Secretary, such license shall be declared
 137 active.

138 43-22A-10.

139 The Secretary, in consultation with the advisory group, may impose on a licensed lactation
 140 consultant any sanction authorized under subsection (c) of Code Section 43-22A-12 upon
 141 a finding of any conduct specified in subsection (a) of Code Section 43-22A-12.

142 43-22A-11.

143 On and after July 1, 2018, no person without a license as a lactation consultant issued
 144 pursuant to this chapter shall use the title 'licensed lactation consultant' or 'licensed L.C.'
 145 or practice lactation care and services, provided that this chapter shall not prohibit any
 146 practice of lactation care and services that is exempt pursuant to the provisions set forth in
 147 Code Section 43-22A-13.

148 43-22A-12.

149 (a) The Secretary may revoke, suspend, deny, or refuse to issue or renew a license; place
 150 a licensee on probation; or issue a letter of admonition upon proof that the licensee or
 151 applicant:

152 (1) Has procured or attempted to procure a license by fraud, deceit, misrepresentation,
 153 misleading omission, or material misstatement of fact;

154 (2) Has been convicted of a felony or of any crime involving moral turpitude as provided
 155 under state law;

156 (3) Has willfully or negligently acted in a manner inconsistent with the health or safety
 157 of persons under such licensee's care;

158 (4) Has had a license to practice a business or profession suspended or revoked or has
 159 otherwise been subject to discipline related to such licensee's practice of a business or
 160 profession in any other jurisdiction;

161 (5) Has committed a fraudulent act that materially affects the fitness of the licensee or
 162 applicant to practice a business or profession;

163 (6) Excessively or habitually uses alcohol or drugs, provided that the Secretary shall not
 164 discipline a licensee under this paragraph if such licensee is enrolled in a substance abuse
 165 program approved by the office; or

166 (7) Has a physical or mental disability that renders such licensee incapable of safely
 167 administering lactation care and services.

168 (b) The Secretary is authorized to conduct investigations into allegations of conduct
 169 described in subsection (a) of this Code section.

170 (c) In addition to revoking, suspending, denying, or refusing to renew a license, the
 171 Secretary may fine a licensee found to have violated any provision of this chapter or any
 172 rule adopted by the Secretary under this chapter not less than \$100.00 nor more than
 173 \$500.00 for each violation.

174 (d) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
 175 shall be applicable to the Secretary and the provisions of this chapter.

176 43-22A-13.

177 Nothing in this chapter shall be construed to affect or prevent:

178 (1) Persons licensed to practice the professions of dentistry, medicine, osteopathy,
 179 chiropractic, nursing, physician assistant, or dietetics from engaging in the practice of
 180 lactation care and services when incidental to the practice of their profession, except such
 181 persons shall not use the title 'licensed lactation consultant' or 'licensed L.C.';

182 (2) Doulas and perinatal and childbirth educators from performing education functions
 183 consistent with the accepted standards of their respective occupations, except such
 184 persons shall not use the title 'licensed lactation consultant' or 'licensed L.C.' or designate
 185 themselves by any other term or title which implies that such person has the clinical skills
 186 and education comparable to a licensed lactation consultant;

187 (3) The practice of lactation care and services by students, interns, or persons preparing
 188 for the practice of lactation care and services under the qualified supervision of a lactation
 189 consultant or any licensed professional listed in paragraph (1) of this Code section;

190 (4) Employees of the United States government or any bureau, division, or agency
 191 thereof from engaging in the practice of lactation care and services within the discharge
 192 of the employees' official duties so long as such employees are performing their duties
 193 within the recognized confines of a federal installation regardless of whether jurisdiction
 194 is solely federal or concurrent;

195 (5) Employees of a department, agency, or division of state, county, or local government
 196 from engaging in the practice of lactation care and services within the discharge of the
 197 employees' official duties, including, but not limited to, peer counselors working within
 198 the Special Supplemental Nutrition Program for Women, Infants, and Children;

- 199 (6) Individual volunteers from providing lactation care and services, provided that:
200 (A) Such volunteers shall not use the title 'licensed lactation consultant' or 'licensed
201 L.C.,' shall not state that they are licensed to practice lactation care and services, and
202 shall not designate themselves by any other term or title which implies that such
203 volunteers have the clinical skills and education comparable to a licensed lactation
204 consultant;
205 (B) Their volunteer service is performed without fee or other form of compensation,
206 monetary or otherwise, from the individuals or groups served; and
207 (C) Such volunteers receive no form of compensation, monetary or otherwise, except
208 for administrative expenses, such as mileage;
209 (7) A nonresident IBCLC from practicing lactation care and services in this state for five
210 days without licensure or up to 30 days with licensure from another state if the
211 requirements for licensure in such other state are substantially equal to the requirements
212 contained in this chapter; or
213 (8) Other health care related professionals from seeking licensure for their professions."

214 **SECTION 2.**

215 All laws and parts of laws in conflict with this Act are repealed.