

House Bill 649 (COMMITTEE SUBSTITUTE)

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 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
2 physicians, acupuncturists, and others, so as to require licensure of lactation consultants; to
3 provide for a short title; to provide for legislative findings; to provide for definitions; to
4 provide for an advisory committee; to provide for licensure application and qualifications;
5 to provide for license renewal; to provide for statutory construction; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
10 acupuncturists, and others, is amended by adding a new article to read as follows:

11 "ARTICLE 9A

12 43-34-260.

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

15 43-34-261.

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 article 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 43-34-262.

24 As used in this article, the term:

25 (1) 'Advisory committee' means the committee appointed pursuant to Code Section
 26 43-34-263.

27 (2) 'Applicant' means any person seeking a license under this article.

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

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

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

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

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

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

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

44 (D) Evaluation of outcomes;

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

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

47 (6) 'Lactation consultant' means a person duly licensed under this article to practice
 48 lactation care and services.

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

50 (8) 'Practice' means rendering or offering to render any lactation care and services to any
 51 individual, family, or group of individuals.

52 43-34-263.

53 (a) The board shall appoint a lactation consultant advisory committee. The members of
 54 the advisory committee shall:

55 (1) Be citizens of the United States and residents of this state;

56 (2) Have engaged in the practice of lactation care and services for at least one year; and

57 (3) Be licensed under this chapter.

58 (b) Members shall receive no compensation for service on the advisory committee.

59 (c) The advisory committee shall have such duties and responsibilities as the board may
 60 determine, including, but not limited to, consulting with the board on the issuance, denial,
 61 suspension, and revocation of licenses and the promulgation of rules and regulations
 62 pursuant to this article.

63 43-34-264.

64 The board, in consultation with the advisory committee, shall have the power and
 65 responsibility to:

66 (1) Enforce the provisions of this article, and it shall be granted all of the necessary
 67 duties, powers, and authority to carry out this responsibility;

68 (2) Draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the
 69 administration and enforcement of this article in the protection of public health, safety,
 70 and welfare;

71 (3) License duly qualified applicants by examination or reinstatement;

72 (4) Implement the disciplinary process;

73 (5) Enforce qualifications for licensure;

74 (6) Set standards for competency of licensees continuing in or returning to practice;

75 (7) Issue orders when a license is surrendered to the board while a complaint,
 76 investigation, or disciplinary action against such licensee is pending;

77 (8) Adopt, revise, and enforce rules regarding advertising by licensees, including, but not
 78 limited to, rules to prohibit false, misleading, or deceptive practices;

79 (9) Adopt, publish in print or electronically, and enforce a code of ethics;

80 (10) Establish examination and licensing fees;

81 (11) Request and receive the assistance of state educational institutions or other state
 82 agencies;

83 (12) Prepare information of consumer interest describing the regulatory functions of the
 84 board and the procedures by which consumer complaints are filed with and resolved by
 85 the board; and

86 (13) Establish continuing education requirements.

87 43-34-265.

88 The board may grant, upon application and payment of proper fees, a license without
 89 examination to a person who, at the time of application, either:

90 (1) Holds a valid license to practice lactation care and services issued by another state,
 91 political territory, or jurisdiction acceptable to the board if, in the board's opinion, the
 92 requirements for that license are substantially equal to or greater than the requirements
 93 of this article; or

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

96 43-34-266.

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

101 (1) Meeting the international education and clinical standards established for IBCLCs
 102 by the IBLCE or other national testing service as approved by the board;

103 (2) Providing proof of successful completion of the IBLCE examination or other
 104 examination as approved by the board;

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

114 (4) Completing such other requirements as may be prescribed by the board.

115 43-34-267.

116 After evaluation of an application and other evidence submitted, the board shall notify each
 117 applicant that the application and evidence submitted are satisfactory and accepted or
 118 unsatisfactory and rejected. If rejected, the notice shall state the reasons for the rejection.

119 43-34-268.

120 (a) A license issued by the board is the property of the board and must be surrendered on
 121 demand.

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

123 (c) The licensee shall inform the board of any change of address.

124 (d) The license shall be renewed biennially if the licensee is not in violation of this article
 125 at the time of application for renewal and if the applicant fulfills current requirements of
 126 continuing education as established by the board.

127 (e) Each person licensed under this article is responsible for renewing his or her license
 128 before the expiration date.

129 (f) Under procedures and conditions established by the board, a licensee may request that
 130 his or her license be declared inactive. The licensee may apply for active status at any
 131 time, and upon meeting the conditions set by the board, such license shall be declared
 132 active.

133 43-34-269.

134 The board, in consultation with the advisory committee, may impose on a licensed lactation
 135 consultant any sanction authorized under subsection (b) of Code Section 43-34-8 upon a
 136 finding of any conduct specified in subsection (a) of Code Section 43-34-8.

137 43-34-270.

138 On and after July 1, 2018, no person without a license as a lactation consultant issued
 139 pursuant to this article shall use the title 'licensed lactation consultant' or 'licensed L.C.' or
 140 practice lactation care and services, provided that this article shall not prohibit any practice
 141 of lactation care and services that is exempt pursuant to the provisions set forth in Code
 142 Section 43-34-271.

143 43-34-271.

144 Nothing in this article shall be construed to affect or prevent:

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

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

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

157 (4) Employees of the United States government or any bureau, division, or agency
 158 thereof from engaging in the practice of lactation care and services within the discharge
 159 of the employees' official duties so long as such employees are performing their duties

160 within the recognized confines of a federal installation regardless of whether jurisdiction
161 is solely federal or concurrent;
162 (5) Employees of a department, agency, or division of state, county, or local government
163 from engaging in the practice of lactation care and services within the discharge of the
164 employees' official duties, including, but not limited to, peer counselors working within
165 the Special Supplemental Nutrition Program for Women, Infants, and Children;
166 (6) Individual volunteers from providing lactation care and services, provided that:
167 (A) Such volunteers shall not use the title 'licensed lactation consultant' or 'licensed
168 L.C.,' shall not state that they are licensed to practice lactation care and services, or
169 shall not designate themselves by any other term or title which implies that such
170 volunteers have the clinical skills and abilities associated with licensure;
171 (B) Their volunteer service is performed without fee or other form of compensation,
172 monetary or otherwise, from the individuals or groups served; and
173 (C) Such volunteers receive no form of compensation, monetary or otherwise, except
174 for administrative expenses, such as mileage;
175 (7) A nonresident IBCLC from practicing lactation care and services in this state for five
176 days without licensure or up to 30 days with licensure from another state if the
177 requirements for licensure in such other state are substantially equal to the requirements
178 contained in this article; or
179 (8) Other health care related professionals from seeking licensure for their professions."

180 **SECTION 2.**

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