

HOUSE RESEARCH

Bill Summary

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Authors: Peterson and others

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Analyst: Lynn Aves

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Overview

This bill, if enacted, would require individuals who provide clinical lactation services to be licensed. The state of Rhode Island has enacted legislation requiring licensure of clinical lactation consultants.

Section

- 1** **Scope and application.** Creates § 148.9801.
 - Subd. 1. Scope.** Provides that this act applies to individuals who use titles protected under this act, represent they are licensed under this act, or who are licensed under this act.
 - Subd. 2. Application.** Provides that this act does not prohibit individuals from providing breastfeeding education and support services whether or not licensed under this act.
- 2** **Definitions.** Creates § 148.9802. Defines the following terms for purposes of this act: “biennial licensure period,” “breastfeeding education and support services,” “certified lactation counselor, advanced lactation consultant, or advanced nurse lactation consultant,” “clinical lactation services,” commissioner,” “credential,” “International Board-Certified lactation Consultant,” “license or licensed,” “licensed lactation consultant,” “licensee,” “licensure by equivalency,” “licensure by reciprocity,” and “protected title.”
- 3** **Licensure; protected titles and restrictions on use; exempt persons; sanctions.** Creates § 148.9803.

Section

Subd. 1. Unlicensed practice prohibited. Prohibits the practice of clinical lactation services by any person who is not licensed under this act.

Subd. 2. Protected titles and restrictions on use. Prohibits the use of certain titles, phrases, and initials to imply a person is licensed as a lactation consultant if that person is not licensed under this act.

Subd. 3. Exempt persons. Provides an exemption from the licensure requirement for:

- a person employed as a lactation consultant or lactation counselor by a federal government agency when that person is acting within the scope of employment;
- a student participating in supervised fieldwork or coursework;
- under specified conditions, a person visiting then leaving the state and performing clinical lactation services;
- a dentist, physician or osteopath, nurse, physician assistant, dietician, or midwife;
- a public employee who is acting within the scope of employment, such as an employee of a WIC program; or
- a volunteer providing clinical lactation services, but only if the volunteer does not use protected titles, no fee is charged for services, and the volunteer receives no compensation, except administrative expenses.

Subd. 4. Sanctions. Allows sanctions to be imposed on or action to be taken against a person who practices clinical lactation services without a license.

Subd. 5. Exemption. Provides that any person, acting within the scope of their occupation or profession, who is regulated by the state, is not prohibited from providing services that are regulated by this act.

4 Penalty. Creates § 148.9804. Allows the commissioner to impose a penalty not to exceed \$10,000 on a licensed lactation consultant who violates this act.

5 Application requirements; procedure. Creates § 148.9806.

Subd. 1. Application for licensure. Requires an applicant to have a current credential from the International Board of Lactation Consultant Examiners, the Academy of Lactation Policy and Practice of the Health Children Project, Inc., or from another jurisdiction; complete and sign an application for licensure along with the required fees; sign a waiver authorizing the commissioner to obtain records related to the applicant's prior practice or education; and submit additional information required by the commissioner.

Subd. 2. Credentialed applicants. Requires applicants to provide verified documentation from the board that the applicant is a credentialed lactation care provider and a signed waiver authorizing the commissioner to access the applicant's records that are maintained by the board. Clarifies that the commissioner has authority

Section

to deny a license if the applicant may have committed an act that constitutes grounds for discipline.

Subd. 3. Applicants credentialed in another jurisdiction. Requires applicants who hold a current credential in another state whose credentialing standards are equivalent to or exceed the requirements of this act to request that the credentialing authority provide written verification to the commissioner that the applicant holds a credential and is in good standing with the credentialing authority.

Subd. 4. Action on applications for licensure. Requires the commissioner to approve, approve with conditions, or deny a license. Allows the commissioner to investigate information the applicant provides. Requires the commissioner to notify an applicant of the action taken on the application. Allows the applicant to make a written request for reconsideration within 30 days if the commissioner takes adverse action.

6 Licensure renewal. Creates § 148.9807.

Subd. 1. Renewal requirements. Requires the licensee to submit a completed and signed renewal application along with the required fee; proof of a current credential with the International Board of Lactation Consultant Examiners, the Academy of Lactation Policy and Practice of the Healthy Children Project, Inc., or a credential from another jurisdiction; and additional information required by the commissioner.

Subd. 2. Renewal deadline. Provides that a license must be renewed every two years. The application for license renewal must be received by the commissioner at least 30 calendar days before the expiration date printed on the license. Provides that an application received within 30 days of the expiration date, but before the expiration date, must be accompanied by a late fee in addition to the renewal fee.

Subd. 3. Licensure renewal notice. Requires the commissioner to mail a renewal notice to the licensee at least 60 days prior to the license expiration date.

7 Licensure renewal; after expiration date. Creates § 148.9808. Requires an individual whose renewal application is received after the license expiration date to submit an application for licensure following lapse in licensed status; the renewal fee and late fee; proof that the licensee holds a valid credential; and any additional information required by the commissioner.

8 Change of name, address, or employment. Creates § 148.9809. Requires a licensee to notify the commissioner of any change in name, address, or employment within 30 days of the change.

9 Recipient notification. Creates § 148.9810.

Subd. 1. Required notification. Provides that if there is no physician referral or prior authorization for services, a licensed lactation care provider must provide a written notice to clients that they may be obligated for partial or full payment for services. Allows the consultant to use an alternative format in order to accommodate the client.

Section

Subd. 2. Evidence of recipient notification. Requires a consultant to provide proof of compliance with the notice requirement.

10 Fees. Creates § 148.9811. Establishes the various license related fees. Provides that fees are nonrefundable.

11 Grounds for discipline or denial of licensure; investigation procedures; disciplinary actions. Creates § 148.9812.

Subd. 1. Grounds for discipline or denial of licensure. Lists the types of conduct that are grounds for disciplinary action.

Subd. 2. Investigation of complaints. Requires the commissioner to comply with the procedures for the health-related licensing boards for receipt, investigation, and hearing complaints as provided in section 214.10.

Subd. 3. Disciplinary action. Lists the types of disciplinary action that may be taken by the commissioner.

Subd. 4. Effect of specific disciplinary action on use of title. Requires the licensee to cease using the protected title if the disciplinary action imposed prevents the person from providing clinical lactation services.

Subd. 5. Reinstatement requirements after disciplinary action. Allows a person whose license has been suspended to request reinstatement.

Subd. 6. Authority to contract. Requires the commissioner to contract with the health professionals services program to provide services to licensees.

12 Stakeholder engagement. Creates § 148.9813. Requires the commissioner to work with community stakeholders to carry out a study to identify barriers, challenges, and successes related to breastfeeding. Requires a report to be completed and submitted to the commissioner on or before September 15, 2017.

13 Effective date. Sections 1 to 12 are effective July 1, 2017.