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*** Current Through the 2016 Regular Session ***

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 22A. LACTATION CONSULTANT PRACTICE

O.C.G.A. § 43-22A-1 (2016)

§ 43-22A-1. Short title

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

HISTORY: Code 1981, § 43-22A-1, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-2. Purpose of chapter; legislative findings

The General Assembly acknowledges that the application of specific knowledge and skills 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 declared, therefore, to be the purpose of this chapter 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.

HISTORY: Code 1981, § 43-22A-2, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-3. Definitions

As used in this chapter, the term:

- (1) "Advisory group" means the group appointed pursuant to Code Section 43-22A-4.
- (2) "Applicant" means any person seeking a license under this chapter.
- (3) "International Board Certified Lactation Consultant (IBCLC)" means a person 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.
- (4) "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.
- (5) "Lactation care and services" means the clinical application of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to childbearing families regarding lactation care and services.

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

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

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

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

(D) Evaluation of outcomes;

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

(F) The recommendation and use of assistive devices.

(6) "Lactation consultant" means:

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

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

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

(8) "Office" means the office of the Secretary of State.

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

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

HISTORY: Code 1981, § 43-22A-3, enacted by Ga. L. 2016, p. 357, § 1/ HB 649.

§ 43-22A-4. Lactation Consultant Advisory Group; membership

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

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

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

(d) Members shall serve without compensation.

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

HISTORY: Code 1981, § 43-22A-4, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-5. Duties of advisory group

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

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

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

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

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

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

HISTORY: Code 1981, § 43-22A-5, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-6. Application; license

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

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

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

HISTORY: Code 1981, § 43-22A-6, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-7. Requirements for application for licensure

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

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

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

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

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

HISTORY: Code 1981, § 43-22A-7, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-8. Notification to applicant of acceptance or rejection

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

HISTORY: Code 1981, § 43-22A-8, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-9. License as property; display; address changes; renewal; inactive status

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

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

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

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

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

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

HISTORY: Code 1981, § 43-22A-9, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-10. Sanction

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

HISTORY: Code 1981, § 43-22A-10, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-11. Use of title "licensed lactation consultant" or "licensed L.C."

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

HISTORY: Code 1981, § 43-22A-11, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-12. Licensing authority of Secretary; investigations; fines

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

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

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

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

(4) Has had a license to practice a business or profession suspended or revoked or has otherwise been

subject to discipline related to such licensee's practice of a business or profession in any other jurisdiction;

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

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

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

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

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

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

HISTORY: Code 1981, § 43-22A-12, enacted by Ga. L. 2016, p. 357, § 1/HB 649.

§ 43-22A-13. Compliance with state and federal regulations

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

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

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

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

(4) Employees of the United States government or any bureau, division, or agency thereof from

engaging in the practice of lactation care and services within the discharge of the employees' official duties so long as such employees are performing their duties within the recognized confines of a federal installation regardless of whether jurisdiction is solely federal or concurrent;

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

(6) Individual volunteers from providing lactation care and services, provided that:

(A) Such volunteers shall not use the title "licensed lactation consultant" or "licensed L.C.," shall not state that they are licensed to practice lactation care and services, and shall not designate themselves by any other term or title which implies that such volunteers have the clinical skills and education comparable to a licensed lactation consultant;

(B) Their volunteer service is performed without fee or other form of compensation, monetary or otherwise, from the individuals or groups served; and

(C) Such volunteers receive no form of compensation, monetary or otherwise, except for administrative expenses, such as mileage;

(7) A nonresident IBCLC from practicing lactation care and services in this state for five days without licensure or up to 30 days with licensure from another state if the requirements for licensure in such other state are substantially equal to the requirements contained in this chapter; or

(8) Other health care related professionals from seeking licensure for their professions.

HISTORY: Code 1981, § 43-22A-13, enacted by Ga. L. 2016, p. 357, § 1/ HB 649.