



# House of Representatives

General Assembly

**File No. 410**

February Session, 2024

Substitute House Bill No. 5318

*House of Representatives, April 10, 2024*

The Committee on Public Health reported through REP. MCCARTHY VAHEY of the 133rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT REQUIRING THE LICENSURE OF LACTATION CONSULTANTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2027*) As used in this section and  
2 sections 2 to 4, inclusive, of this act:

3 (1) "Lactation consultant" means a person who holds and maintains  
4 certification in good standing as an international board certified  
5 lactation consultant with the International Board of Lactation  
6 Consultant Examiners; and

7 (2) "Lactation consulting" means clinical application of scientific  
8 principles and a multidisciplinary body of evidence for evaluation,  
9 problem identification, treatment, education and consultation to  
10 families regarding the course of lactation and feeding, including, but not  
11 limited to, the following services:

12 (A) Taking maternal, child and feeding histories;

13 (B) Performing clinical assessments related to breastfeeding and  
14 human lactation through the systematic collection of subjective and  
15 objective information;

16 (C) Analyzing relevant information and data;

17 (D) Developing an unbiased lactation management and child feeding  
18 plan with demonstration and instruction to parents;

19 (E) Providing lactation and feeding education, including, but not  
20 limited to, recommendations for and training in the use of assistive  
21 devices for lactation and breastfeeding;

22 (F) Communicating to a primary health care practitioner and  
23 referring to other health care practitioners, as necessary;

24 (G) Conducting appropriate follow-up appointments and evaluating  
25 outcomes; and

26 (H) Documenting patient encounters in a patient record.

27 Sec. 2. (NEW) (*Effective October 1, 2027*) (a) No person may practice  
28 lactation consulting, for compensation, unless licensed pursuant to  
29 section 3 of this act.

30 (b) No person may use the title "lactation consultant" or the  
31 designation "L.C.", or make use of any title, words, letters, abbreviations  
32 or insignia that may reasonably be confused with licensure as a lactation  
33 consultant unless such person is licensed pursuant to section 3 of this  
34 act.

35 (c) The provisions of this section shall not apply to a person who (1)  
36 provides lactation consulting while acting within the scope of practice  
37 of the person's license and training, provided the person does not hold  
38 himself or herself out to the public as a lactation consultant, (2) is a  
39 student enrolled in a lactation consulting educational program or a  
40 graduate nursing or medical education program in lactation consulting  
41 and lactation consulting is an integral part of the student's course of

42 study and such student is performing such consulting under the direct  
43 supervision of a licensed lactation consultant, physician or other health  
44 care provider or educator who provides lactation consulting or  
45 education in lactation counseling within the scope of practice of the  
46 provider's license and training, (3) provides lactation consulting  
47 through the federal Special Supplemental Food Program for Women,  
48 Infants and Children, administered pursuant to section 19a-59c of the  
49 general statutes, or any other federally funded nutrition assistance  
50 program administered in the state, to participants in such program  
51 while acting within the scope of the person's profession and training,  
52 provided the person does not hold himself or herself out to the public  
53 as a lactation consultant, or (4) provides lactation consulting as a  
54 certified community health worker, as defined in section 20-195ttt of the  
55 general statutes, provided the person does not hold himself or herself  
56 out to the public as a lactation consultant.

57 Sec. 3. (NEW) (*Effective October 1, 2027*) (a) The Commissioner of  
58 Public Health shall grant a license as a lactation consultant to any  
59 applicant who furnishes evidence satisfactory to the commissioner that  
60 such applicant has earned a certification or credential from the  
61 International Board of Lactation Consultant Examiners, or any successor  
62 of said board. The commissioner shall develop and provide application  
63 forms. The application fee shall be two hundred dollars.

64 (b) Any license issued under this section shall expire in accordance  
65 with the provisions of section 19a-88 of the general statutes, as amended  
66 by this act, and may be renewed every two years, for a fee of one  
67 hundred dollars. Each licensed lactation consultant applying for license  
68 renewal shall furnish evidence satisfactory to the commissioner of  
69 having a current certification or credential with the International Board  
70 of Lactation Consultant Examiners, or any successor of said board, and  
71 having obtained continuing education units for such certification or  
72 credential as required by said board.

73 Sec. 4. (NEW) (*Effective October 1, 2027*) The Commissioner of Public  
74 Health may deny an application of an individual or take any

75 disciplinary action set forth in section 19a-17 of the general statutes  
76 against a lactation consultant for any of the following reasons: (1)  
77 Failure to conform to the accepted standards of the profession; (2)  
78 conviction of a felony, provided any action taken is based upon (A) the  
79 nature of the conviction and its relationship to the license holder's ability  
80 to safely or competently practice as a lactation consultant, (B)  
81 information pertaining to the degree of rehabilitation of the license  
82 holder, and (C) the time elapsed since the conviction or release; (3) fraud  
83 or deceit in obtaining or seeking reinstatement of a license to practice  
84 lactation consulting; (4) fraud or deceit in the practice of lactation  
85 consulting; (5) negligent, incompetent or wrongful conduct in  
86 professional activities; (6) physical, mental or emotional illness or  
87 disorder resulting in an inability to conform to the accepted standards  
88 of the profession; (7) alcohol or substance abuse; or (8) wilful  
89 falsification of entries in any hospital, patient or other record pertaining  
90 to lactation consulting. The commissioner may order a license holder to  
91 submit to a reasonable physical or mental examination if his or her  
92 physical or mental capacity to practice safely is the subject of an  
93 investigation. The commissioner may petition the superior court for the  
94 judicial district of Hartford to enforce such order or any action taken  
95 pursuant to section 19a-17 of the general statutes. The commissioner  
96 shall give notice and an opportunity to be heard on any contemplated  
97 action under section 19a-17 of the general statutes.

98 Sec. 5. Subsection (c) of section 19a-14 of the general statutes is  
99 repealed and the following is substituted in lieu thereof (*Effective October*  
100 *1, 2027*):

101 (c) No board shall exist for the following professions that are licensed  
102 or otherwise regulated by the Department of Public Health:

103 (1) Speech and language pathologist and audiologist;

104 (2) Hearing instrument specialist;

105 (3) Nursing home administrator;

- 106 (4) Sanitarian;
- 107 (5) Subsurface sewage system installer or cleaner;
- 108 (6) Marital and family therapist and marriage and family therapist  
109 associate;
- 110 (7) Nurse-midwife;
- 111 (8) Licensed clinical social worker;
- 112 (9) Respiratory care practitioner;
- 113 (10) Asbestos contractor, asbestos consultant and asbestos training  
114 provider;
- 115 (11) Massage therapist;
- 116 (12) Registered nurse's aide;
- 117 (13) Radiographer;
- 118 (14) Dental hygienist;
- 119 (15) Dietitian-Nutritionist;
- 120 (16) Asbestos abatement worker;
- 121 (17) Asbestos abatement site supervisor;
- 122 (18) Licensed or certified alcohol and drug counselor;
- 123 (19) Professional counselor and professional counselor associate;
- 124 (20) Acupuncturist;
- 125 (21) Occupational therapist and occupational therapist assistant;
- 126 (22) Lead abatement contractor, lead consultant contractor, lead  
127 consultant, lead abatement supervisor, lead abatement worker, lead  
128 training provider, lead inspector, lead inspector risk assessor and lead

- 129 planner-project designer;
- 130 (23) Emergency medical technician, advanced emergency medical
- 131 technician, emergency medical responder and emergency medical
- 132 services instructor;
- 133 (24) Paramedic;
- 134 (25) Athletic trainer;
- 135 (26) Perfusionist;
- 136 (27) Master social worker subject to the provisions of section 20-195v;
- 137 (28) Radiologist assistant, subject to the provisions of section 20-74tt;
- 138 (29) Homeopathic physician;
- 139 (30) Certified water treatment plant operator, certified distribution
- 140 system operator, certified small water system operator, certified
- 141 backflow prevention device tester and certified cross connection survey
- 142 inspector, including certified limited operators, certified conditional
- 143 operators and certified operators in training;
- 144 (31) Tattoo technician;
- 145 (32) Genetic counselor;
- 146 (33) Behavior analyst;
- 147 (34) Art therapist;
- 148 (35) Esthetician;
- 149 (36) Eyelash technician; [and]
- 150 (37) Nail technician; and
- 151 (38) Lactation consultant.

152 The department shall assume all powers and duties normally vested

153 with a board in administering regulatory jurisdiction over such  
 154 professions. The uniform provisions of sections 1 to 4, inclusive, of this  
 155 act, this chapter and chapters 368v, 369 to 381a, inclusive, 383 to 388,  
 156 inclusive, 393a, 395, 398, 399, 400a and 400c, including, but not limited  
 157 to, standards for entry and renewal; grounds for professional discipline;  
 158 receiving and processing complaints; and disciplinary sanctions, shall  
 159 apply, except as otherwise provided by law, to the professions listed in  
 160 this subsection.

161 Sec. 6. Subdivision (2) of subsection (e) of section 19a-88 of the general  
 162 statutes is repealed and the following is substituted in lieu thereof  
 163 (*Effective October 1, 2027*):

164 (2) Each person holding a license or certificate issued under section  
 165 19a-514, sections 1 to 4, inclusive, of this act, and chapters 384a, 384c,  
 166 384d, 386, 387, 388 and 398 shall apply for renewal of such license or  
 167 certificate once every two years, during the month of such person's  
 168 birth, giving such person's name in full, such person's residence and  
 169 business address and such other information as the department  
 170 requests.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2027</i>	New section
Sec. 2	<i>October 1, 2027</i>	New section
Sec. 3	<i>October 1, 2027</i>	New section
Sec. 4	<i>October 1, 2027</i>	New section
Sec. 5	<i>October 1, 2027</i>	19a-14(c)
Sec. 6	<i>October 1, 2027</i>	19a-88(e)(2)

**PH** Joint Favorable Subst.

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** *See Below*

**Municipal Impact:** None

### **Explanation**

The bill creates a new Department of Public Health (DPH) licensure category for lactation consultants, starting 10/1/27, which results in a General Fund (GF) revenue gain of approximately \$53,200 in FY 28 from initial licensure fees from approximately 266 lactation consultants<sup>1</sup> (\$200 each) and, beginning in FY 30 and continuing biennially, a GF revenue gain of \$26,600 from license renewal fees (\$100 each). As the language of the bill conforms the licensing of lactation consultants to current DPH licensing practices of other professions, and the number of projected initial and renewal applications is limited, it is anticipated the department can establish this new licensure category within existing resources.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of initial and renewal lactation consultant licensure fees collected by DPH.

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<sup>1</sup>There are 266 lactation consultants potentially eligible for licensure as of 1/2/24 according to the International Board of Lactation Consultant Examiners.



**OLR Bill Analysis****sHB 5318*****AN ACT REQUIRING THE LICENSURE OF LACTATION CONSULTANTS.*****SUMMARY**

Starting in October 2027, this bill creates a Department of Public Health (DPH) licensure program for lactation consultants and generally prohibits unlicensed people from practicing lactation consulting for compensation or using the “lactation consultant” title.

To receive a license, an applicant must have a certification or credential from the International Board of Lactation Consultant Examiners (IBLCE) or any successor to it. DPH must issue a license to an applicant who submits satisfactory evidence of this, on a DPH form. The licensure application fee is \$200, and licenses may be renewed every two years for \$100.

Subject to certain conditions, the bill does not restrict unlicensed people from practicing lactation consulting if they are (1) acting within their scope of practice or through federally funded nutrition assistance programs, or (2) community health workers or lactation consultant students.

In addition, the bill sets forth the grounds for DPH disciplinary action against licensees and specifies that no new regulatory board is created for lactation consultants.

EFFECTIVE DATE: October 1, 2027

***Lactation Consulting Definition (§ 1)***

Under the bill, “lactation consulting” is helping families with lactation and feeding by clinically applying scientific principles and multidisciplinary evidence on related evaluation, problem

identification, treatment, education, and consultation, including the following services:

1. taking maternal, child, and feeding histories;
2. performing clinical assessments related to breastfeeding and human lactation by systematically collecting subjective and objective information;
3. analyzing relevant information and data;
4. developing an unbiased lactation management and child feeding plan with demonstration and instruction to parents;
5. providing lactation and feeding education, including recommendations and training on the use of assistive devices;
6. communicating to a primary health care practitioner and referring to other practitioners, as needed;
7. conducting appropriate follow-up appointments and evaluating outcomes; and
8. documenting patient encounters in a patient record.

***Licensure Requirement and Exemptions (§ 2)***

The bill generally prohibits anyone without a lactation consultant license from (1) practicing lactation consulting for compensation or (2) using the title “lactation consultant,” “L.C.,” or any title, words, letters, abbreviations, or insignia that may reasonably be confused with this credential.

These restrictions do not prevent people without this license from providing lactation consulting under the following conditions, as long as they do not hold themselves out to the public as lactation consultants:

1. while acting within the scope of practice of their license and training;

2. while doing so through the federal Special Supplemental Food Program for Women, Infants, and Children (WIC) or other federally funded nutrition assistance programs, while acting within the scope of practice of their profession and training; or
3. when doing so as a certified community health worker.

The bill also does not restrict certain students from providing lactation consulting. This applies to students in a lactation consulting educational program or a graduate nursing or medical education program in lactation consulting, if (1) lactation consulting is an integral part of the education program and (2) the student acts under the direct supervision of a licensed lactation consultant, physician, or other health care provider or educator who provides lactation consulting or related education within the scope of practice of the provider's license and training.

#### ***License Renewals (§§ 3 & 6)***

Under the bill, a lactation consultant license expires every two years, and may be renewed during the licensee's birth month for a \$100 fee. To renew, licensees must provide satisfactory evidence that they have (1) a current certification or credential with IBLCE or any successor to it and (2) have completed the continuing education IBLCE requires for that certification or credential. Renewal applicants must give DPH their full name, residence and business addresses, and any other information the department requests.

#### ***Enforcement and Disciplinary Action (§ 4)***

The bill allows the DPH commissioner to deny a license application or take disciplinary action against a lactation consultant for the following:

1. failing to conform to the profession's accepted standards;
2. a felony conviction, if the disciplinary action is based on (a) the nature of the conviction and its relationship to the licensee's ability to safely or competently practice, (b) information on the

licensee’s degree of rehabilitation, and (c) the time passed since the conviction or release;

- 3. fraud or deceit in getting or seeking reinstatement of a license or in the practice of lactation consulting;
- 4. negligence, incompetence, or wrongful conduct in professional activities;
- 5. an inability to conform to professional standards because of a physical, mental, or emotional illness;
- 6. alcohol or substance abuse; or
- 7. willfully falsifying entries in a hospital, patient, or other record pertaining to lactation consulting.

By law, disciplinary actions available to DPH include, among other things, (1) revoking or suspending a license, (2) censuring the violator, (3) issuing a letter of reprimand, (4) placing the violator on probationary status, or (5) imposing a civil penalty of up to \$25,000 (CGS § 19a-17).

Under the bill, the commissioner may order a licensee to undergo a reasonable physical or mental examination if his or her capacity to practice safely is under investigation. The bill allows the commissioner to petition Hartford Superior Court to enforce the examination order or any DPH disciplinary action. The commissioner must give the person notice and an opportunity to be heard before taking disciplinary action.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 24 Nay 11 (03/22/2024)