



MECHANISMS FOR ADVANCING HEALTH EQUITY ISSUE BRIEF

Creating an Equitable Landscape for Lactation Consultant Licensure in Rhode Island

Introduction

Rhode Island is one of four states to license lactation consultants, passing the Lactation Consultant Practice Act in 2014.¹ Requiring licensure can lead to increased quality of lactation-based care, but it can also lead to barriers to entry into the lactation consulting profession resulting in a workforce lacking in diversity. In Rhode Island, as in many states, there are a variety of practitioners providing lactation support in clinical and non-clinical settings, including International Board Certified Lactation Consultants (IBCLC), Certified Lactation Counselors, Specialists, and Educators (CLC, CLS, and CLE), and peer counselors or educators, among others. Rhode Island's Lactation Consultant Practice Act authorizes the Director of Health to license lactation consultants, considering criteria established by the IBCLE "or other national standards" (emphasis added).² According to the Rhode Island Department of Health regulations, however, IBCLE certification is required.³

Barriers to Inclusion: Requiring licensure of lactation consultants is one way to establish a minimum standard of care for providing lactation care and services. However, the education and experience requirements set by the IBLCE for certification create a significant barrier for many individuals, particularly those from marginalized communities with respect to access to educational and economic opportunities.⁴ Licensure can have the practical effect of limiting the participation of individuals from diverse educational backgrounds and practice settings.⁵ In addition, one consequence of requiring IBCLC certification for licensure is that only IBCLC may receive Medicaid reimbursement for services, typically as part of care teams or covered in the scope of another profession (with the exception of lactation care provided through the federal Women, Infants and Children or WIC Program).⁶ This can limit economic opportunity for other types of lactation support workers engaged in non-clinical settings. One way to alleviate this problem is to have inclusive reimbursement policies covering all lactation support providers.⁷

There were 62 IBCLC in Rhode Island as of March 25, 2022, and 135 CLC as of July 1, 2022, out of 18,532 IBCLC and 21,095 CLC in the U.S. in 2022.⁸ This Issue Brief examines the licensure requirements for lactation consultants in Rhode Island and was written in response to a request for research on policy options that would make licensure more inclusive, improve the diversity of providers, and provide pathways to economic opportunity for other levels of lactation support workers.



Overview of Lactation Consultants

A lactation consultant is a healthcare professional who specializes in the clinical management of breastfeeding. Lactation consultants provide guidance and support to people who choose to breastfeed and their infants to help them overcome any challenges they may encounter during the breastfeeding process, and to ensure that they have a successful and satisfying experience.⁹ The role of a lactation consultant can include assessing breastfeeding difficulties, providing education and support on breastfeeding techniques, assisting with breastfeeding equipment and products, helping to manage breastfeeding-related medical conditions, and advocating for the needs and rights of breastfeeding parents and infants.¹⁰


Lactation consultants and other lactation support workers can provide valuable support and guidance to help parents overcome these challenges and establish a successful breastfeeding relationship with their infants.¹¹ Breastfeeding provides many well-established benefits.¹² For infants, parent's milk provides essential nutrients, growth factors, and immune system components that are vital for healthy growth and development.¹³ Breastfed infants have lower rates of infectious diseases, respiratory illnesses, and gastrointestinal problems, as well as a reduced risk of obesity, diabetes, and other chronic health conditions later in life.¹⁴ For parents who breastfeed, there are numerous health benefits, including a reduced risk of breast and ovarian cancers, as well as improved postpartum recovery and weight loss.¹⁵ Breastfeeding also promotes a strong bond between the parent and the infant and can help to reduce stress and anxiety in both.¹⁶ Breastfeeding is not always easy, and many breastfeeding parents may encounter challenges such as sore nipples, difficulty latching, and low milk supply.¹⁷

Licensure of Lactation Consultants in Other States

Rhode Island, Georgia, New Mexico, and Oregon have established licensure requirements for lactation consultants (see Table). Among all four states, applicants for licensure must be at least 18 years old, hold an approved certification as a lactation care provider, such as an IBCLC (and/or CLC in New Mexico only), pass a federal background check, and pay the appropriate fees.¹⁸ All four states prohibit non-licensed persons who provide lactation care and services from identifying themselves as being licensed as a lactation care provider or consultant.¹⁹ Exemptions to this provision are noted in the Table. Only New Mexico and Oregon specifically state that a license is not required to provide lactation care and services (NM) or to perform services as a CLC (OR).²⁰

Pending Georgia Litigation: When enacted in 2016, Georgia's lactation consultant licensure law was the most restrictive. It required IBCLC certification for licensure and specifically prohibited persons without a license from practicing lactation care and services, except as otherwise exempted.²¹ This prohibition was challenged in *Jackson v. Raffensperger*, a suit initially brought in 2018 by Mary Jackson on behalf of her non-profit, Reaching Our Sisters Everywhere, which is dedicated to reducing breastfeeding disparities among African American women.²² The case was argued on both substantive due process and equal protection grounds under Georgia's Constitution.²³ By requiring lactation consultants to be licensed in order to practice in the state, Plaintiffs argued that their right to pursue employment free from unreasonable government interference was being infringed and that lactation consultants were being treated differently based on their certification status.²⁴ In March of 2022, the Fulton County (GA) Superior Court granted Plaintiff's motion for summary judgment, finding that Georgia's Lactation Consultant Practice Act violated the Equal Protection Clause of the Georgia Constitution by treating IBCLC and CLC differently even though they are similarly situated in providing lactation care and services.²⁵ However, the Court also found that the Act did not violate substantive due process because not all lactation care providers were prohibited from working under the Act, and the Act is rationally related to a legitimate government interest. This case is currently on appeal to the Supreme Court of Georgia.²⁶

Status in Washington and Louisiana: While no other states currently regulate lactation consultants, Washington state introduced Senate Bill 5470 (2023-24) to create a voluntary licensure process for lactation consultants, based on the recommendations of a 2016 Sunrise Review by the Department of Health.²⁷ This bill did not progress out of committee before the end of the legislative session.²⁸ Pursuant to a law enacted in 1999, Louisiana requires the Louisiana Department of Health, Office of Public Health to maintain a registry of IBCLC in the State but does not require licensure to



practice.²⁹ While there are sites that enable a search for lactation consultants by geographic area, it does not appear that a specific registry is maintained by the state of Louisiana.

Understanding the Arguments

Advocates for the licensure of lactation consultants argue that it would lead to better regulation of the profession and improve the quality of lactation care and services provided to new parents and infants.³⁰ Licensure may also allow lactation consultants to be included in Medicaid reimbursement policies, which may require that services provided be conducted by a licensed professional, potentially increasing access to care for low-income individuals.³¹ Furthermore, if licensed, then lactation consultants could be included in other insurance policies, making their services more affordable and accessible to a wider range of patients.³² Overall, the licensure of lactation consultants could lead to improved maternal and infant health outcomes, increased access to care, and better recognition of the importance of lactation care in the healthcare system.

Opponents of requiring licensure for lactation consultants often argue that licensure could create unnecessary barriers to entry into the profession for experienced individuals who may have already received extensive training and are providing high-quality lactation care and services.³³ These individuals may have learned their skills through alternative educational pathways or through years of practical experience outside a clinical setting, which may not be recognized by the licensing body or covered by insurance.³⁴ Many lactation support providers who work with low-income populations may not have the resources to meet licensure requirements, such as completing certain educational programs or paying to take specific exams. This could lead to a shortage of lactation consultants in areas where there is already a lack of access to healthcare resources. Efforts could instead be focused on ensuring that all lactation care providers receive adequate training and continuing education, and that they follow certain standards of practice.


Impact on Lactation Providers. There is also an argument that requiring licensure could limit access to care for low-income individuals who rely on other types of lactation care providers.³⁵ This could have a disproportionate impact on women of color and low-income women, who are more likely to experience barriers to accessing lactation care and may rely on services and support from lactation support providers who are not licensed but who are otherwise trained to provide lactation care.³⁶ Moreover, critics contend that lactation care is already underutilized and stigmatized, especially in communities of color.³⁷ Imposing licensure requirements may further perpetuate these inequities and exacerbate disparities in maternal and infant health outcomes. As such, opponents argue that alternative strategies, such as increasing funding for lactation services, providing training for non-licensed lactation support workers, and expanding access to care may be more effective in improving outcomes for women and infants.³⁸

Role of Review Boards. In 2013, prior to the passage of Georgia's Lactation Consultant Practice Act, Georgia's Occupational Regulation Review Council reviewed the proposed legislation.³⁹ The Council issued a report concluding that while the public would benefit from assurances that lactation consultants are qualified, requiring certification would likely lead to inequitable access to lactation consultants for women of color and low-income women.⁴⁰ The council noted that the requirements set forth by the IBLCE are extensive and amount to a barrier to entry for many women who otherwise would be able to provide lactation support services to their community.⁴¹ While recognizing the potential benefits of licensing lactation consultants, the Council believed that the bill would not improve access to care for most breastfeeding persons. By unanimous vote, the Council did not recommend the passage of House Bill 363 (2013), although it was eventually enacted.⁴² The Washington Department of Health's 2016 Lactation Consultant Sunrise Review had similar findings, highlighting the potential inequity that could come from requiring licensure of lactation consultants.⁴³ This review proposed an alternative solution of voluntary certification, explored in potential policy options below.

Potential Policy Options

There are several ways that regulating lactation consultants could be more equitable and inclusive. Options for states looking to establish or update licensure requirements include:

- Conducting a thorough review of whether licensure is necessary or appropriate by examining the impact of licensure on underserved and historically marginalized communities and populations. This includes reviewing proposed or existing statutes and regulations.
- Changing Medicaid coverage requirements. There is variation across states in Medicaid coverage for breastfeeding services. States can elect to cover these services for providers of lactation care in different settings.

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- Considering alternatives to IBLCE certification. These alternatives can address certain barriers to equity in lactation care, including training, education and experience requirements, and licensure fees.

Reviewing Statutes & Regulations

While licensure is intended to ensure that practitioners meet certain education and training standards, it can also create barriers to entry, particularly for individuals from underrepresented communities in the field of practice. These barriers can limit the availability of lactation consultants, leading to decreased breastfeeding rates and worse health outcomes for parents and infants. Thus, a review of licensure requirements for lactation consultants is necessary to determine whether they are appropriate and necessary for ensuring safe and effective lactation care. The reviews conducted by both Georgia and Washington provide examples of what the process can look like. These types of reviews can help identify ways to reduce or eliminate barriers and thereby increase the number and diversity of qualified lactation consultants. Ultimately, reviewing licensure requirements for lactation consultants with an intentional focus on the benefits and burdens to both parents and providers from historically marginalized groups can help promote equity in the workforce and in health care access. This necessarily should involve conversations with providers, parents, and other persons who would be impacted by the proposed laws.

Changing Medicaid Coverage Requirements

States that have adopted Medicaid expansion are required to cover lactation consultation services for expansion beneficiaries. However, there is variation in whether these services are part of global maternity care payments or billable as separate services, and whether they are provided in hospital, during outpatient visits, or at home. Non-expansion states do not have a requirement for coverage of breastfeeding services.⁴⁴ Among the four states reviewed in this Issue Brief, only Oregon covers lactation consultation services in all settings and Rhode Island does not cover these services in any setting (although lactation support can be provided as part of the Medicaid home visiting program).⁴⁵ It is common for IBCLC to be nurses working in a hospital setting who may provide lactation care within their scope of practice (30 states cover inpatient lactation consultation through Medicaid). Therefore, recognizing other certifications like CLC for providers who may practice in community-based settings and outpatient clinics can create a pathway for coverage of services that can improve access to care. For comparison, Medicaid coverage of Community Health Worker (CHW) services includes states that recognize or incentivize certification for CHWs who are part of care teams and/or working under the supervision of licensed providers and, in some states, certification is required for Medicaid reimbursement.⁴⁶ More inclusive Medicaid coverage policies can help achieve a more equitable and diverse workforce.

Considering Alternatives to IBCLE Certification

- ***Increase Flexibility in Licensure Options:*** The lactation consultant regulations in Rhode Island specifically adopt the IBCLE scope of practice and require IBCLE certification to be licensed, to the exclusion of other types of providers, like CLC, and other types of accrediting organizations, such as the Academy of Lactation Policy and Practice. One of the reasons that IBCLE certification serves as a barrier is its education and experience requirements and cost. First time applicants must complete education in 14 health science subjects and 95 hours of lactation specific education, demonstrate lactation specific clinical experience, pay candidate fees of \$660 for Tier 1 countries, and pass an exam that is offered only twice a year.⁴⁷ Costs do not reflect additional fees imposed by the regulating body to obtain licensure. States should consider recognizing different levels of lactation care providers that meet established standards as a way to help create a more diverse and inclusive body of lactation consultants, which is essential in promoting equity. Among the four states reviewed in this Issue Brief, New Mexico has the most inclusive regulation by recognizing both IBCLC and CLC and allowing an individual who holds a certification as a lactation care provider conferred by a certification program accredited by a nationally or internationally recognized accrediting agency that is not IBCLC or CLC to petition for review of their application. New Mexico also does not require a license to provide lactation care and services.
- ***Establish Voluntary Certification Programs:*** Voluntary certification programs can ensure that individuals providing lactation support have the necessary knowledge and skills to do so effectively. Such a program can establish training and practice standards for lactation support providers, giving parents and families greater confidence in the care they receive. Additionally, voluntary certification can help to professionalize the field,

increasing recognition and support for lactation support providers at all levels as essential members of the healthcare team. As noted earlier, Washington considered a bill in the 2023-24 session that would have established a voluntary certification process for lactation consultants. As with Medicaid coverage, voluntary CHW certification serves as a related example, with some states establishing voluntary certification programs and requiring certification for Medicaid reimbursement.⁴⁸ These programs are intended to define the scope of practice, establish that certified individuals have met a standard set of qualifications, and provide a career ladder.⁴⁹ Similar models could be applied in states considering or currently regulating lactation consultants.

Conclusion

The regulatory scheme in Rhode Island for lactation consultants provides valuable insights into the challenges and opportunities faced by states interested in ensuring the quality of care provided to parents and infants while also ensuring that competent and trained professionals do not experience unnecessary occupational barriers. Rhode Island has an opportunity to amend its regulations to establish more inclusive licensure requirements, which has the potential to promote equity in the workforce and in access to care. By removing administrative burdens, more individuals from diverse backgrounds can enter the field and provide valuable support to breastfeeding parents. This can lead to increased rates of successful breastfeeding and better health outcomes for both parents and infants. Ultimately, promoting equity in lactation consultant licensure can help to ensure that all parents who choose to breastfeed have access to the support they need to make informed decisions about their breastfeeding journey.

Table: State Laws Regarding Licensure of Lactation Consultants

Last reviewed April 2023

State	Statute	Regulation	Lead Agency	Requires IBCLC Certification	Allows CLC Certification	Recognizes Other National Certification	Exemptions			
							Within the scope of another license or profession	WIC or other state programs	Educational settings (students, interns)	Volunteers
GA	Ga. Code Ann. §§ 43-22A-1 to 43-22A-13	Ga. Comp. R. & Regs. 590-12-1-.01 to 590-12-1.03	Secretary of State Lactation Consultant Advisory Group	X			X*	X	X	X
NM	N.M. Stat. §§ 61-3B-1 to 61-3B-4	16.12.11.1 to 16.12.11.15 NMAC	New Mexico Board of Nursing Lactation Care Provider Advisory Committee	X	X	X	X		X	X
OR	OR Rev. Stat. §§ 676.665 to 676.689.	OAR 331-475-0005 to 331-495-0005	Oregon Health Authority, Health Licensing Office	X			X**	X	X	



RI	RI Gen. Laws §§ 23-13.6-1 to 23-13.6-6	216-RICR-40-05-27	Department of Health	X			X	X	X	X
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*Georgia allows non-resident IBCLC to practice lactation care and services for five days without licensure or up to 30 days with licensure from another state if the requirements for licensure are substantially equal to Georgia's requirements.

**Oregon does not prohibit a person whose training and national certification attest to their preparation and ability to practice their profession or occupation if the person does not represent that they are a lactation consultant.

This Issue Brief strives to use gender inclusive language to accurately reflect the scope of people impacted by lactation care. We use the term "women" to be consistent with research or resources cited, and also recognize that more inclusive language is needed to better reflect the experiences of all people who need access to equitable health care.

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SUPPORTERS



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Endnotes

¹ R.I. Gen. Laws § 23-13.6-1 (2014)

² *Id.*

³ 16. 216-RICR-40-05-27

⁴ Anstey EH, Coulter M, Jevitt CM, et al. *Lactation Consultants' Perceived Barriers to Providing Professional Breastfeeding Support*, *Journal of Human Lactation*, 2018;34(1):51-67. doi:10.1177/0890334417726305

⁵ Barraza L, Lebedevitch C, Stuebe A. The Role of Law and Policy in Assisting Families to Reach Healthy People's Maternal, Infant, and Child Health Breastfeeding Goals in the United States. Department of Health and Human Services, Office of Disease Prevention and Health Promotion (ODPHP); 4 May 2020. Supported by the Centers for Disease Control and Prevention, ODPHP, and the CDC Foundation through a grant from the Robert Wood Johnson Foundation.

⁶ Usha Ranji et al., Kaiser Family Foundation, *Medicaid Coverage of Pregnancy-Related Services: Findings from a 2021 State Survey*, May 19, 2022, <https://www.kff.org/report-section/medicaid-coverage-of-pregnancy-related-services-findings-from-a-2021-state-survey-report/>

⁷ See note 5 above.

⁸ Statistical report of certified IBCLCs in the United States, March 25, 2022. Available at: https://ibclce.org/wp-content/uploads/2022/03/2022_March_25_IBCLCs_US_Territories.pdf; Statistical report of certified lactation consultants in the United States, July 1, 2022. Available at: <https://www.alpp.org/images/pdf/Statistical-Report-CLCs.pdf>

⁹ Cleveland Clinic, Lactation Consultants, November 30, 2021, <https://my.clevelandclinic.org/health/articles/22106-lactation-consultant>

¹⁰ See note 5 above.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ R.I. Gen. Laws § 23-13.6-1 (2014); OR Rev. Stat. §§ 676.665 to 676.689; Ga. Code Ann. §§ 43-22A-1 to 43-22A-13; N.M. Stat. Ann. §§ 61-3B-1 to 61-3B-4 (2010)

¹⁹ *Id.*

²⁰ OR Rev. Stat. §§ 676.665 to 676.689; Ga. Code Ann. §§ 43-22A-1 to 43-22A-13; N.M. Stat. Ann. §§ 61-3B-1 to 61-3B-4 (2010)

²¹ Ga. Code Ann. §§ 43-22A-1 to 43-22A-13

²² *Jackson v. Raffensperger*, 308 Ga. 736 (2020)

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Joseph Diedrich et al., *Husch Blackwell Authors Amicus Brief to Georgia Supreme Court in Occupational Licensing Dispute*, November 14, 2022, <https://www.huschblackwell.com/inthenews/husch-blackwell-authors-amicus-brief-to-georgia-supreme-court-in-occupational-licensing-dispute>

²⁷ Creating a New Health Profession for Lactation Consultants, WA S.B. 5470-2023-24; Washington State Department of Health, *Lactation Consultant Sunrise Review*, 631-062, November 2016, <https://doh.wa.gov/sites/default/files/legacy/Documents/2000/LactConsultFINAL.pdf>

²⁸ Creating a new health profession for lactation consultants, Wash. Leg. S.B. 5470. Reg. Sess. 2023-24 (2023). <https://app.leg.wa.gov/billsummary?BillNumber=5470&Year=2023&Initiative=false>

²⁹ LA Rev. Stat. § 40:2213 (2018)

³⁰ See note 5 above.

³¹ See note 6 above.

³² *Id.*

³³ Paul Hsieh, *How Licensing Laws Harm Mothers, Infants, and Lactation Consultants*, August 13, 2018, <https://www.forbes.com/sites/paulhsieh/2018/08/13/how-licensing-laws-harm-mothers-infants-and-lactation-consultants/?sh=44b80b7721b2>



³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Georgia Occupational Regulation Review Council. House Bill 363: Georgia Lactation Consultant Practice Act (LC 33 5015) – A Review of the Proposed Legislation, December 2013, https://ij.org/wp-content/uploads/2022/02/sunrise/Georgia_2013_LactationConsultants.pdf

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See note 21 above.

⁴³ Washington State Department of Health, *Lactation Consultant Sunrise Review*, 631-062, November 2016, <https://doh.wa.gov/sites/default/files/legacy/Documents/2000/LactConsultFINAL.pdf>

⁴⁴ See note 6 above.

⁴⁵ *Id.*

⁴⁶ MacPac, *Medicaid Coverage of Community Health Worker Services*, April 2022, <https://www.macpac.gov/wp-content/uploads/2022/04/Medicaid-coverage-of-community-health-worker-services-1.pdf>

⁴⁷ International Board of Lactation Consultant Examiners, *What are the Requirements to Sit for the IBCLC Exam?*, June 30, 2022, <https://iblce.org/faq/what-are-the-requirements-to-sit-for-the-iblce-examination/#>

⁴⁸ National Academy for State Health Policy, *State Community Health Worker Models*, <https://www.astho.org/topic/brief/state-approaches-to-community-health-worker-certification/>

⁴⁹ Association of State and Territorial Health Officials, *State Approaches to Community Health Worker Certification*, June 14, 2022