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## **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)