

# **RULES AND REGULATIONS FOR LICENSING OF LACTATION CONSULTANTS**

[R23-13.6-LAC]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

**May 2015**

## ***INTRODUCTION***

These *Rules and Regulations for Licensing of Lactation Consultants [R23-13.6-LAC]* are promulgated pursuant to the authority set forth in Chapter 23-13.6 of the General Laws of Rhode Island, as amended, for the purpose of defining prevailing standards for the licensing of lactation consultants.

Pursuant to the provisions of §42-35-3(a)(3) and §42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified.

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## Section 1.0 *Definitions*

Wherever used in these Regulations, the following terms shall be construed as follows:

- 1.1 “**Act**” means RIGL Chapter 23-13.6 entitled “*Lactation Consultant Practice Act of 2014*”.
- 1.2 “**Approved educational program in lactation**” means an academic and practical program of lactation approved by the International Board of Lactation Consultant Examiners).
- 1.3 “**Department**” means the Rhode Island Department of Health.
- 1.4 “**Director**” means the means the Director of the Rhode Island Department of Health or his or her designee.
- 1.5 “**International Board Certified Lactation Consultant (IBCLC)**” means an individual who holds current certification from the International Board of Lactation Consultant Examiners (IBLCE) after demonstrating the appropriate education, knowledge and sitting for and passing the exam.
- 1.6 “**Lactation care and services**” means the clinical application of scientific principles and a multidisciplinary body of evidence for the evaluation, problem identification, treatment, education, and consultation to provide lactation care and services to childbearing families.
- 1.7 “**Lactation consultant**” means a health care professional who specializes in the clinical management of breastfeeding.
- 1.8 “**Practice**” means rendering or offering to render any lactation care and services to any individual, family, or group of individuals.
- 1.9 “**RIGL**” means the General Laws of Rhode Island, as amended.
- 1.10 “**Supervision**” means that a licensed lactation consultant is at all times responsible for supportive personnel and clients. Supervision is further defined in §2.3 of these Regulations.
- 1.11 “**These Regulations**” mean all parts of Rhode Island *Rules and Regulations for Licensing of Lactation Consultants*.

## Section 2.0 *General Licensure Requirements*

- 2.1 **License Required.** A person shall not practice as a lactation consultant or represent himself or herself as being able to practice as a lactation consultant in Rhode Island unless the person is licensed pursuant to the provisions of the Act and these Regulations.
- 2.2 **Exemptions.**
  - (a) Nothing in the Act or these Regulations shall be construed to prevent qualified members of other professions or other occupations or volunteers from performing functions consistent with the accepted standards of their respective professions; provided, however, that they do not hold themselves out to the public by any title or description stating or implying that they are lactation consultants licensed to practice clinical lactation care and services in Rhode Island.

- (b) Nothing in the Act or these Regulations shall be construed to prevent the practice of lactation care and services by students, interns, or persons preparing for practice under the qualified supervision of an individual licensed pursuant to the Act and these Regulations.
- (c) Lactation care and services provided through the Federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC) program shall be considered exempt from the licensing requirements of § 2.1 of these Regulations.

### 2.3 **Supervision.**

- (a) A licensed lactation consultant shall exercise sound judgment and shall provide care within the scope of practice or guidelines in the performance of his or her duties. A licensed lactation consultant shall be permitted to supervise the following:
  - (1) Licensed lactation consultants;
  - (2) Students, interns, or persons preparing for practice as a lactation consultant;
  - (3) Care extenders and other team members as appropriate; and
  - (4) Volunteers.
- (b) A licensed lactation consultant shall not delegate to individuals under their supervision, who are not a licensed lactation consultant, any of the following tasks:
  - (1) Initiation, planning, adjustment, modification, or performance of lactation care and services requiring the skills or judgment of a licensed lactation consultant;
  - (2) Acting on behalf of a licensed lactation consultant in any matter related to providing lactation care and services which requires decision making or professional judgment.

### Section 3.0 ***Qualification for Licensure***

#### 3.1 **Lactation Consultant.** An applicant for licensure as a lactation consultant shall:

- (a) Be at least eighteen (18) years of age;
- (b) Successfully complete an academic and practical program in lactation that is accredited by the International Board of Lactation Consultant Examiners;
- (c) Pass the examination for board certification as an International Board Certified Lactation Consultant offered by the International Board of Lactation Consultant Examiners, or any successor organization; and
- (d) Currently be board certified as an International Board Certified Lactation Consultant.

### Section 4.0 ***Application for Licensure and Fee***

#### 4.1 **Application for Licensure.** Application for licensure shall be made on forms furnished by the Department, which shall be completed, notarized and submitted to the Department. Such application shall be accompanied by the following documents:

- (a) Official transcripts or other acceptable verification of successful completion of an academic and practical program in lactation that is accredited by the International Board of Lactation Consultant Examiners;
- (b) The results of the certification examination as an International Board Certified Lactation Consultant shall be submitted directly by the International Board of Lactation Consultant Examiners;
- (c) Verification of current board certification as an International Board Certified Lactation Consultant shall be submitted directly by the International Board of Lactation Consultant Examiners;
- (d) One (1) unmounted photograph of the applicant, head and shoulder front view, approximately 2 x 3 inches in size;
- (e) Verification that the applicant is in good standing based on a review of the applicant's lactation consultant practice history in other jurisdictions, including a review of any alleged misconduct or neglect in their practice as a lactation consultant on the part of the applicant [if registered or licensed in another state(s)].

4.2 **Application for Licensure by Endorsement.** Application for licensure by endorsement shall be made on forms furnished by the Department, which shall be completed, notarized and submitted to the Department. Such application shall provide evidence satisfactory to the Director that the applicant is licensed and in good standing as a lactation consultant in another jurisdiction where the qualifications required are equal to, or greater than, those required by the Act and these Regulations at the date of application.

4.3 **Fee.** The application fee (not refundable and non-returnable) as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany the application for licensure. Applications received without the required application fee shall be returned to the applicant.

4.4 **Issuance of License.** A license as a lactation consultant may be issued to an applicant who meets the relevant requirements for licensure as required by the Act and these Regulations.

## Section 5.0 ***Expiration & Renewal of Licenses and Failure to Renew***

5.1 **Expiration.** The license of every person licensed pursuant to provisions of the Act and these Regulations shall expire on the thirty-first (31<sup>st</sup>) day of January of the next odd-numbered year following the issuance of his or her license.

5.2 **Renewal.** Every licensed person who desires to renew his or her license shall file with the Department a renewal application, executed, together with a renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, on or before the thirty-first (31<sup>st</sup>) day of January in each odd-numbered year. Upon receipt of a renewal application and payment of the renewal fee, the accuracy of the application shall be verified and the Department may grant a license renewal effective on the first (1<sup>st</sup>) day of February and expiring on the thirty-first (31<sup>st</sup>) day of January in each odd-numbered year.

### 5.3 **Failure to Renew.**

- (a) Failure to renew a license on or before the thirty-first (31st) day of January in each odd-numbered year, as required by these Regulations, shall result in forfeiture of the registration.
- (b) Licenses that have been forfeited may be restored within one year of the expiration date upon payment of the current renewal fee, plus an additional fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.
- (c) Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license, and the Department may require the individual to reapply for licensure as a new applicant.

### Section 6.0 ***Maintenance of Certification***

6.1 **Renewal Certification.** Each renewal application shall contain a statement signed by the licensee attesting to his or her status as an International Board Certified Lactation Consultant, as required pursuant to § 3.1 of these Regulations, is active and not subject to any restriction, limitation or other sanction.

### 6.2 **Required Notification to the Department**

- (a) An individual licensed pursuant to these Regulations shall notify the Department, in writing, within five (5) business days of receiving notification from the International Board of Lactation Consultant Examiners that his or her status as an International Board Certified Lactation Consultant, as required pursuant to § 3.1 of these Regulations, has been revoked and/or subject to any restriction, limitation or other sanction.
- (b) An individual licensed pursuant to these Regulations shall notify the Department, in writing, within five (5) business days of failure to renew or other lapse of his or her status as an International Board Certified Lactation Consultant, as required pursuant to § 3.1 of these Regulations.

### Section 7.0 ***Transfers to Inactive List and Reinstatement***

7.1 **Transfers to Inactive List.** A licensed lactation consultant who does not intend to continue his or her license may, upon written request to the Department, have his or her name transferred to an inactive list, and shall not be required to pay the renewal fee as long as he or she remains inactive.

7.2 **Reinstatement.** Should a licensed lactation consultant wish to resume functioning, he or she must notify the Department and remit his or her renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* along with an application and attestation of his or her status as International Board Certified Lactation Consultant in accordance with § 6.1 of these Regulations.

## Section 8.0 *Standards for Responsible Professional Conduct*

- 8.1 **Scope of Practice.** A licensed lactation consultant may practice independent management of lactation care and services using the clinical application of scientific principles and a multidisciplinary body of evidence for the evaluation, problem identification, treatment, education and consultation to provide lactation care and services to childbearing families. Furthermore, a licensed lactation consultant shall comply with the *Scope of Practice for International Board Certified Lactation Consultant (IBCLC) Certificants*<sup>1</sup> published by the International Board of Lactation Consultant Examiners.
- 8.2 **Limitation of Practice.** A licensed lactation consultant shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.
- 8.3 **Professional Conduct.** A licensed lactation consultant shall conduct his or her professional activities in accordance with the *Code of Professional Conduct for IBCLCs*<sup>2</sup> published by the International Board of Lactation Consultant Examiners.

## Section 9.0 *Lactation Advisory Council*

- 9.1 Within the Department, the Director shall establish a Lactation Advisory Council that shall meet at least once a year, and consist of five (5) members: one (1) physician, three (3) licensed lactation consultants and one (1) consumer.
- 9.2 No member shall be appointed for more than two (2) consecutive full terms. A member appointed for less than a full term (originally, or to fill a vacancy) may serve two (2) terms in addition to that part of a full term, and a former member shall again be eligible for appointment after a lapse of one (1) or more years. A full term shall be equal to three (3) years.
- 9.3 Successors to members of the Council whose term expires shall be appointed in such year by the Director to hold office for three (3) years or until their respective successors are appointed.
- 9.4 The Director may remove any member of the Council for neglect of duty or incompetency and may fill vacancies that occur for any purpose for the remainder of the unexpired term.

## Section 10.0 *Functions of Advisory Council*

- 10.1 The Council shall serve in an advisory capacity to the Director in matters pertaining to the licensing of lactation consultants and the practice of lactation consultation.

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<sup>1</sup> The current edition of the *Scope of Practice for International Board Certified Lactation Consultant (IBCLC) Certificants* may be downloaded at no charge from the International Board of Lactation Consultant Examiners website: <http://iblce.org/wp-content/uploads/2013/08/scope-of-practice.pdf>

<sup>2</sup> The current edition of the *Code of Professional Conduct for IBCLCs* may be downloaded at no charge from the International Board of Lactation Consultant Examiners website: <http://iblce.org/wp-content/uploads/2013/08/code-of-professional-conduct.pdf>

10.2 The Council shall advise the Director on such matters as policies affecting examination, qualifications, issuance and renewal, denial or revocation of licenses, and the development of rules and regulations.

#### Section 11.0 *Denial, Suspension or Revocation of License – Violations*

##### 11.1 **Due Process.**

(a) Upon due notice and hearing in accordance with RIGL Chapter 42-35 (the Administrative Procedures Act), and the provisions of § 12.1 of these Regulations, any violation pursuant to the provisions of the Act and these Regulations, may be cause for denial, revocation or suspension of license or for imposing a fine of not more than one thousand dollars (\$1,000), in accordance with § 23-13.6-5 of the Act.

(b) Except as otherwise provided in the Act and these Regulations, the inspection, enforcement, and penalties for violations of the provisions of the Act or these Regulations shall be in accordance with the provisions and procedures set forth in RIGL §§ 23-1-19 through 23-1-25.

11.2 **Grounds for Discipline without a Hearing.** The Director may temporarily suspend the license of a licensed lactation consultant without a hearing if the Director finds that evidence in his or her possession indicates that a licensed lactation consultant continuing in practice would constitute an immediate danger to the public. In the event that the Director temporarily suspends the license of a licensed lactation consultant without a hearing, a hearing must be held within ten (10) days after the suspension has occurred.

#### Section 12.0 *Rules Governing Practices and Procedures*

12.1 All hearings and reviews required pursuant to provisions of the Act and these Regulations shall be held in accordance with the provisions of the *Rules and Regulations Pertaining to Practices and Procedures Before the Rhode Island Department of Health [R42-35-PP]*.

#### Section 13.0 *Severability*

13.1 If any provisions of these Regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.