

216-RICR-40-05-27

## TITLE 216 – DEPARTMENT OF HEALTH

### CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

#### SUBCHAPTER 05 – PROFESSIONAL LICENSING

##### PART 27 – LICENSING OF LACTATION CONSULTANTS AND COUNSELORS

### 27.1 Authority and Purpose

- A. These Rules and Regulations for Licensing of Lactation Consultants and Counselors are promulgated pursuant to the authority set forth in R.I. Gen. Laws §§ 23-13.6-3 and 23-13.8-12 for the purpose of defining prevailing standards for the licensing of Lactation Consultants and Counselors.

### 27.2 Incorporated Materials

- A. These Regulations hereby adopt and incorporate the International Board of Lactation Consultant Examiners' "Scope of Practice for International Board Certified Lactation Consultant (IBCLC) Certificants" (2018) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- B. These Regulations hereby adopt and incorporate the International Board of Lactation Consultant Examiners' "Code of Professional Conduct for IBCLCs" (2023) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- C. These Regulations hereby adopt and incorporate the Academy of Lactation Policy and Practice "[Scope of Practice for the Certified Lactation Counselor \(CLC\)](#)" (2024) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- D. These Regulations hereby adopt and incorporate the Academy of Lactation Policy and Practice "[Scope of Practice for the Advanced Lactation Consultant \(ALC\), Advanced Nurse Lactation Consultant \(ANLC\)](#)" (2024) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- E. These Regulations hereby adopt and incorporate the Academy of Lactation Policy and Practice "[Code of Ethics for Certified Lactation Counselors \(CLC\)](#)" (2017) by reference, not including any further editions or amendments thereof

and only to the extent that the provisions therein are not inconsistent with these Regulations.

- F. These Regulations hereby adopt and incorporate the Academy of Lactation Policy and Practice [“Code of Ethics for Advanced Lactation Consultants \(ALC\) and Advanced Nurse Lactation Consultants \(ANLC\)” \(2017\)](#) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.
- G. These Regulations hereby adopt and incorporate “Advisory Opinion: Assessment, Diagnosis, and Referral” approved by the IBLCE Board of Directors on 22 March 2017 by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.

### **27.3 Definitions**

- A. Wherever used in these Regulations, the following terms shall be construed as follows:
  - 1. "Care extender" means as defined in R.I. Gen. Laws § 23-13.8-2(1).
  - 2. "Department" means the Rhode Island Department of Health.
  - 3. "Director" means the means the Director of the Rhode Island Department of Health or their designee.
  - 4. "Growth Faltering (Failure to thrive)" means a diagnosis of a calculated z score for children with weight, weight for length, or body mass index less than the fifth (5th) percentile or if any of these measurements decrease by more than two (2) percentile lines over time.
  - 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.
  - 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.
  - 7. "Lactation consultant" means as defined in R.I. Gen. Laws § 23-13.6-2(1). In addition to the language in R.I. Gen. Laws § 23-13.6-2(1), a lactation consultant specializes in the full range of breastfeeding care, particularly high acuity breastfeeding situations. This includes medically complex cases encompassing breastfeeding in preterm birth, birth defects, and parental health complications.

8. "Lactation counselor" means as defined in R.I. Gen. Laws § 23-13.8-2(4). In addition to the language in R.I. Gen. Laws § 23-13.8-2(4), a lactation counselor specializes in non-medically complex breastfeeding in healthy term infants and parental health assessment. For the purposes of this Part, reference to a "Lactation Counselor" includes both Lactation Counselors with a CLC certification and Lactation Counselors with an ALC certification.
9. "Medically complex" means children with medical complexity (CMC), who may also be known as "complex chronic" or "medically complex," have multiple significant chronic health problems that affect multiple organ systems and result in functional limitations, high health care need or utilization, and often the need for or use of medical technology.
10. "Practice" means as defined in R.I. Gen. Laws § 23-13.8-2(5).
11. "R.I. Gen. Laws" means the General Laws of Rhode Island, as amended.
12. "Supervision" means that a licensed Lactation Consultant is at all times responsible for supportive personnel and clients. Supervision is further defined in § 27.4.1(C) of this Part.

## **27.4 Qualifications**

### **27.4.1 General Licensure Requirements for Lactation Consultants**

- A. No person can practice as a Lactation Consultant or represent themselves as being able to practice as a Lactation Consultant in Rhode Island unless the person is licensed in accordance with the provisions of R.I. Gen. Laws Chapter 23-13.6 and this Part.
- B. Exemptions to the requirements of R.I. Gen. Laws Chapter 23-13.6 and this Part are pursuant to R.I. Gen. Laws § 23-13.6-4.
- C. Supervision
  1. A licensed Lactation Consultant shall exercise sound judgment and shall provide care within the scope of practice or guidelines in the performance of their duties. A licensed Lactation Consultant is permitted, but not required to supervise the following:
    - a. Licensed Lactation Consultants;
    - b. Licensed Lactation Counselors;
    - c. Students, interns, or persons preparing for practice as a Lactation Consultant;

- d. Care extenders and other team members as appropriate; and
  - e. Volunteers.
2. A licensed Lactation Consultant cannot delegate any of the following tasks to individuals under their supervision, who are not a licensed Lactation Consultant:
- a. Initiation, planning, adjustment, modification, or performance of lactation care and services requiring the skills or judgment of a licensed Lactation Consultant; and,
  - b. 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.

#### **27.4.2 Qualification for Licensure for Lactation Consultants**

- A. An applicant for licensure as a Lactation Consultant shall:
- 1. Be at least eighteen (18) years of age;
  - 2. Successfully complete an academic and practical program in lactation that is accredited by the International Board of Lactation Consultant Examiners (IBLCE);
  - 3. Pass the examination for board certification as an International Board Certified Lactation Consultant (IBCLC) offered by the IBLCE, or any successor organization; and
  - 4. Currently be board certified as an IBCLC.

#### **27.4.3 General Licensure Requirements for Lactation Counselors**

- A. No individual shall practice as a Lactation Counselor unless the individual is licensed in accordance with R.I. Gen. Laws § 23-13.8-3.
- B. No Lactation Counselor shall assume the title of “Lactation Consultant” or use the term consultant or use any abbreviations or any other words, letters, signs, figures, or devices to indicate that the individual using same is a Lactation Consultant as set forth in this Part, unless they hold a license as a Lactation Consultant issued by the Department. The only terms Lactation Counselors may use in this state are Lactation Counselor – CLC or Lactation Counselor - ALC.
- C. In addition to the requirements outlined in R.I. Gen. Laws § 23-13.8-3, an individual applying to be a Lactation Counselor must designate in the application provided by the Department the category of Lactation Counselor for which they are applying. The options will be as follows:

1. Lactation Counselor – CLC. This is for applicants who hold a current certification from the Academy of Lactation Policy and Practice (ALPP) as a Certified Lactation Counselor.
  2. Lactation Counselor – ALC. This is for applicants who hold a current certification from the ALPP as an Advanced Lactation Consultant certification.
- D. For the purposes of this Part, reference to a “Lactation Counselor” includes both the “Lactation Counselor – CLC” and “Lactation Counselor – ALC”.
- E. Exemptions to the requirements of R.I. Gen. Laws Chapter 23-13.8 and this Part are pursuant to R.I. Gen. Laws § 23-13.8-11.
- F. Supervision
1. A licensed Lactation Counselor shall exercise sound judgment and shall provide care within the scope of practice or guidelines in the performance of their duties. A licensed Lactation Counselor is permitted, but not required, to supervise the following:
    - a. Licensed Lactation Counselor;
    - b. Students, interns, or persons preparing for practice as a Lactation Counselor;
    - c. Care extenders and other team members as appropriate; and
    - d. Volunteers.

#### **27.4.4 Qualification for Licensure for Lactation Counselors**

- A. An applicant for licensure as a Lactation Counselor – CLC or Lactation Counselor – ALC must meet the qualifications for licensure outlined in R.I. Gen. Laws § 23-13.8-4.

### **27.5 Application for Lactation Consultant and Lactation Counselor**

#### **27.5.1 Documentation**

- A. In order to apply for a license as a Lactation Consultant, an applicant must submit the following on forms provided by the Department:
1. Completed application including but not limited to name, address, date of birth, social security number, telephone number and email address;
  2. Application fee for a Lactation Consultant as defined in Part 10-05-2 of this Title, the Rules and Regulations Pertaining to the Fee Structure for

Licensing, Laboratory and Administrative Services Provided by the Department of Health. The fee is non-refundable and non-returnable; and

3. Verification of current board certification as an IBCLC submitted directly to the Department by the IBLCE.
- B. In order to apply for a license as a Lactation Counselor, an applicant must submit the following on forms provided by the Department:
1. Completed application including but not limited to name, address, date of birth, social security number, telephone number and email address;
  2. Application fee for a Lactation Counselor as defined in Part 10-05-2 of this Title, the Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health. The fee is non-refundable and non-returnable; and
  3. Verification of current certification as a CLC or an ALC submitted directly to the Department by the ALPP.

#### **27.5.2 Licensure by Endorsement**

- A. In order to apply for a license by endorsement an applicant must submit the following on forms provided by the Department:
1. Completed application including but not limited to name, address, date of birth, social security number, telephone number and email address;
  2. Application fee as defined in Part 10-05-2 of this Title, the Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health. The fee is non-refundable and non-returnable;
  3. Verification that the applicant is licensed and in good standing from all states where the applicant is currently licensed and, if applicable, previously licensed as a Lactation Consultant or Lactation Counselor. Verification must be sent directly to the Department by the certifying and/or licensing authority; and
  4. If applying to be a Lactation Consultant, verification of current board certification as an IBCLC submitted directly to the Department by the IBLCE; or
  5. If applying to be a Lactation Counselor, verification of current certification as a CLC or an ALC submitted directly to the Department by the ALPP.

## **27.6 Issuance of a License for Lactation Consultants and Lactation Counselors**

- A. A license as a Lactation Consultant may be issued to an applicant who meets the relevant requirements for licensure as required by R.I. Gen. Laws Chapter 23-13.6 and this Part.
- B. A license as a Lactation Counselor may be issued to an applicant who meets the relevant requirements for licensure as required by R.I. Gen. Laws Chapter 23-13.8 and this Part.

## **27.7 Expiration & Renewal of a License for Lactation Consultants and Lactation Counselors**

- A. Expiration
  - 1. The licenses of all Lactation Consultants and Lactation Counselors will expire on the thirty-first (31st) day of January of the next odd-numbered year following the issuance of their license.
- B. Renewal
  - 1. In order to renew a license, the licensee must file a renewal application with the Department, together with a renewal fee as defined in Part 10-05-2 of this Title, 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 (31st) day of January in each odd-numbered year.
  - 2. The license renewal is effective on the first (1st) day of February.
- C. Failure to Renew
  - 1. If a licensee fails to renew their license on or before the thirty-first (31st) day of January in each odd-numbered year, as required by this Part, the license will expire.
  - 2. No one whose license is expired is allowed to practice as a Lactation Consultant or Lactation Counselor or represent themselves as being able to practice in Rhode Island until they have renewed the expired license in accordance with § 27.7(D) of this Part or reinstated the terminated license in accordance with § 27.7(E) of this Part.
- D. Expired License

1. A licensee may renew an expired license within one (1) year of the expiration date. In order to renew an expired license, the licensee must submit the following:
  - a. Renewal application together with the current renewal fee plus an additional fee as defined in Part 10-05-2 of this Title, the Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health. The fees are non-refundable and non-returnable.

E. Terminated Licenses

1. If a licensee fails to renew an expired license within one (1) year of the date of its expiration, the license will be terminated. In order to reinstate a terminated license, the licensee must submit the following:
  - a. A reinstatement application together with the current renewal fee, plus an additional fee as defined in Part 10-05-2 of this Title, the Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health. The fees are non-refundable and non-returnable.
  - b. For a Lactation Consultant, verification of current board certification as an IBCLC must be submitted directly to the Department by the IBLCE.
  - c. For a Lactation Counselor, verification of current certification as a CLC or an ALC must be submitted directly to the Department by the ALPP.

## **27.8 Scope of Practice for a Lactation Consultant**

- A. 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 Certificants in accordance with "Scope of Practice for International Board Certified Lactation Consultant (IBCLC) Certificants," incorporated above at § 27.2(A) of this Part.
- B. Limitation of Practice. A licensed Lactation Consultant shall limit their practice to demonstrated areas of competence as documented by relevant professional

education, training, and experience. Unless licensed as a doctor or nurse practitioner, a Lactation Consultant shall not:

1. Give medical advice;
  2. Give a medical diagnosis;
  3. Prescribe medication;
  4. Perform medical procedures; or,
  5. Perform medical treatment.
- C. A licensed Lactation Consultant shall conduct their professional activities in accordance with the "Code of Professional Conduct for IBCLCs", incorporated above at § 27.2(B) of this Part.

## **27.9 Scope of Practice for a Lactation Counselor**

- A. A Lactation Counselor must provide counseling services within the parameters of R.I. Gen. Laws § 23-13.8-9.
- B. In addition to what is outlined in R.I. Gen. Laws § 23-13.8-9, a Lactation Counselor must work with an IBCLC, Physician, or Nurse Practitioner, in accordance with facility policies for such collaboration, when assisting in the lactation care of:
1. Medically complex infants, and
  2. Those with current medical diagnoses or current levels of care including:
    - a. NICU infants;
    - b. Premature infants born before thirty-seven (37) weeks;
    - c. Growth Faltering (Failure to Thrive), or
    - d. Cleft Palate.
  3. If the Lactation Counselor assisting in the lactation care of infants referenced in §§ 27.9(B)(1) or (2) is not employed by the facility, they must have a written collaborative agreement in place which lays out the terms of the collaboration with the collaborating healthcare professional.
- C. Unless licensed as a Physician or Nurse Practitioner, a Lactation Counselor shall not:
1. Give medical advice;

2. Give a medical diagnosis;
  3. Prescribe medication;
  4. Perform medical treatment; or,
  5. Perform medical procedures.
- D. A licensed Lactation Counselor shall conduct their professional activities ethically in accordance with the codes of professional ethics for CLC and ALC from the Academy of Lactation Policy and Practice, incorporated above at §§ 27.2(E) and (F) of this Part.

### **27.10 Maintenance of Certification for Lactation Consultants and Lactation Counselors**

- A. **Renewal Certification.** A licensee must attest on the renewal application that their status as an IBCLC, CLC, or ALC, as required in §§ 27.4.2(A)(4) and 27.4.3 of this Part is active and not subject to any restrictions, limitations or other sanctions.
- B. **Required Notification to the Department**
1. A licensee must notify the Department, in writing, within five (5) business days of receiving notification from the IBLCE or the ALPP that their status as an IBCLC, as required in § 27.4.2(A)(4) of this Part, or as an ALPP CLC, or ALC has been revoked and/or is subject to any restrictions, limitations of other sanctions.
  2. A licensee must notify the Department, in writing, within five (5) business days of failure to renew or other lapse of their status as an IBCLC, or an ALPP CLC, or ALC, as required in §§ 27.4.2(A)(4) and 27.4.3 of this Part.
  3. A licensee's license will be inactive during any period in which the above certifications are not maintained.

### **27.11 Grounds for Refusal, Revocation or Suspension for Lactation Consultants and Lactation Counselors**

- A. Upon due notice and hearing in accordance with R.I. Gen. Laws Chapter 42-35, and the provisions of § 27.11 of this Part, any violation pursuant to the provisions of R.I. Gen. Laws Chapters 23-13.6 and 23-13.8 and this Part, may be cause for denial, revocation or suspension of license or for imposing a fine of not more than one thousand dollars (\$1,000.00), in accordance with R.I. Gen. Laws §§ 23-13.6-5 and 23-13.8-13(a).

- B. Except as otherwise provided in R.I. Gen. Laws Chapters 23-13.6 and 23-13.8 and this Part, the inspection, enforcement, and penalties for violations of the provisions of R.I. Gen. Laws Chapters 23-13.6 and 23-13.8 or this Part shall be in accordance with the provisions and procedures set forth in R.I. Gen. Laws §§ 23-1-19 through 23-1-25.

## **27.12 Rules Governing Practices and Procedures**

- A. All hearings and reviews required pursuant to provisions of R.I. Gen. Laws Chapters 23-13.6 and 23-13.8 and this Part shall be held in accordance with the provisions of Part 10-05-4 of this Title, the Rules and Regulations Pertaining to Practices and Procedures before the Rhode Island Department of Health.

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**CHAPTER 40 - PROFESSIONAL LICENSING AND FACILITY REGULATION**

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**PART 27 - LICENSING OF LACTATION CONSULTANTS (216-RICR-40-05-27)**

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