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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1156

02/23/2015 Authored by Peterson, Schultz, Franson, Melin, Fischer and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; creating licensing for the practice of clinical lactation services;
1.3 establishing fees; proposing coding for new law in Minnesota Statutes, chapter
1.4 148.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[148.9801] SCOPE AND APPLICATION.**

1.7 Subdivision 1. **Scope.** Sections 148.9801 to 148.9815 apply to persons who are
1.8 applicants for licensure, who are licensed, who use the title licensed lactation consultant,
1.9 or who represent that they are licensed under sections 148.9801 to 148.9815.

1.10 Subd. 2. **Application.** Nothing in sections 148.9801 to 148.9815 shall prohibit any
1.11 person from providing breastfeeding education and support services, whether or not that
1.12 person is licensed under sections 148.9801 to 148.9815.

1.13 Sec. 2. **[148.9802] DEFINITIONS.**

1.14 Subdivision 1. **Application.** For purposes of sections 148.9801 to 148.9815, the
1.15 following terms have the meanings given.

1.16 Subd. 2. **Advisory council.** "Advisory council" means the Licensed Lactation
1.17 Consultants Advisory Council in section 148.9814.

1.18 Subd. 3. **Biennial licensure period.** "Biennial licensure period" means the two-year
1.19 period for which licensure is effective.

1.20 Subd. 4. **Breastfeeding education and support services.** "Breastfeeding education
1.21 and support services" refers to activities aimed towards educating and supporting mothers
1.22 and children in meeting their breastfeeding goals, including but not limited to providing
1.23 general breastfeeding education and encouragement, sharing personal experiences,

2.1 and giving nonmedical advice. Breastfeeding education and support services may be
2.2 performed by licensed or unlicensed individuals, including but not limited to lactation
2.3 consultants, counselors, specialists, and educators.

2.4 Subd. 5. **Clinical lactation services.** "Clinical lactation services" refers to the
2.5 clinical application of evidence-based practices for evaluation, problem identification,
2.6 treatment, education, and consultation in providing lactation care and services to
2.7 childbearing families. Clinical lactation services involves all of the following activities:
2.8 lactation assessment through the systematic collection of data; analysis of data; creation of
2.9 lactation care plans; implementation of lactation care plans, including but not limited to
2.10 providing demonstration and instruction to parents and communicating with the primary
2.11 health care provider; evaluation of outcomes; providing lactation education to parents and
2.12 health care providers; and recommending the use of assistive devices when appropriate.
2.13 Individuals who provide all of the services listed in this subdivision are providing clinical
2.14 lactation services. Individuals who provide one or more but not all of the services listed
2.15 in this subdivision are not providing clinical lactation services and are not subject to the
2.16 licensing requirements in sections 148.9801 to 148.9815.

2.17 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of health or a
2.18 designee.

2.19 Subd. 7. **Credential.** "Credential" means a license, permit, certification, registration,
2.20 or other evidence of qualification or authorization to engage in the practice of clinical
2.21 lactation services issued by any authority.

2.22 Subd. 8. **International Board-Certified Lactation Consultant.** "International
2.23 Board-Certified Lactation Consultant" means an individual who possesses a credential
2.24 from the International Board of Lactation Consultant Examiners.

2.25 Subd. 9. **License or licensed.** "License" or "licensed" means the act or status of a
2.26 natural person who meets the requirements of sections 148.9801 to 148.9815.

2.27 Subd. 10. **Licensed lactation consultant.** "Licensed lactation consultant" means an
2.28 individual who meets the requirements of sections 148.9801 to 148.9815, is licensed by
2.29 the commissioner, and is permitted to provide clinical lactation services and use the title
2.30 of licensed lactation consultant.

2.31 Subd. 11. **Licensee.** "Licensee" means a person who meets the requirements of
2.32 sections 148.9801 to 148.9815.

2.33 Subd. 12. **Licensure by equivalency.** "Licensure by equivalency" means a method
2.34 of licensure described in section 148.9806, paragraph (b) or (c), by which an individual
2.35 who possesses a credential from the International Board of Lactation Consultant Examiners
2.36 or another nationally recognized credentialing agency may qualify for licensure.

3.1 Subd. 13. **Licensure by reciprocity.** "Licensure by reciprocity" means a method
 3.2 of licensure described in section 148.9806, paragraph (d), by which an individual who
 3.3 possesses a credential from another jurisdiction may qualify for Minnesota licensure.

3.4 Subd. 14. **Protected title.** "Protected title" means the title of licensed lactation
 3.5 consultant.

3.6 Sec. 3. **[148.9803] LICENSURE; PROTECTED TITLES AND RESTRICTIONS**
 3.7 **ON USE; EXEMPT PERSONS; SANCTIONS.**

3.8 Subdivision 1. **Unlicensed practice prohibited.** No person shall engage in the
 3.9 practice of clinical lactation services unless the person is licensed as a licensed lactation
 3.10 consultant in accordance with sections 148.9801 to 148.9815.

3.11 Subd. 2. **Protected titles and restrictions on use.** Use of the phrase "licensed
 3.12 lactation consultant" or the initials "LLC" alone or in combination with any other words or
 3.13 initials to form an occupational title or to indicate or imply that the person is licensed by
 3.14 the state as a licensed lactation consultant is prohibited unless that person is licensed under
 3.15 sections 148.9801 to 148.9815.

3.16 Subd. 3. **Exempt persons.** This section does not apply to:

3.17 (1) a person employed as a lactation consultant by the government of the United
 3.18 States or any agency of it. However, use of the protected titles under those circumstances is
 3.19 allowed only in connection with performance of official duties for the federal government;

3.20 (2) a student participating in supervised fieldwork or supervised coursework that
 3.21 is necessary to meet the requirements of sections 148.9801 to 148.9815 if the student is
 3.22 designated by a title which clearly indicates the student's status as a student trainee. Any
 3.23 use of the protected titles under these circumstances is allowed only while the person is
 3.24 performing the duties of the supervised fieldwork or supervised coursework; or

3.25 (3) a person visiting and then leaving the state and performing clinical lactation
 3.26 services while in the state if the services are performed no more than 30 days in a
 3.27 calendar year as part of a professional activity that is limited in scope and duration and
 3.28 is in association with a licensed lactation consultant licensed under sections 148.9801 to
 3.29 148.9815, and:

3.30 (i) the person is credentialed under the law of another state which has credentialing
 3.31 requirements at least as stringent as the requirements of sections 148.9801 to 148.9815; or

3.32 (ii) the person meets the requirements for certification as an International
 3.33 Board-Certified Lactation Consultant established by the International Board of Lactation
 3.34 Consultant Examiners.

4.1 Subd. 4. **Sanctions.** A person who practices clinical lactation services or represents
4.2 that they are a licensed lactation consultant by or through the use of any title described
4.3 in subdivision 2 without prior licensure according to sections 148.9801 to 148.9815
4.4 is subject to sanctions or action against continuing the activity according to section
4.5 148.9804, chapter 214, or other statutory authority.

4.6 Subd. 5. **Exemption.** Nothing in sections 148.9801 to 148.9815 shall prohibit the
4.7 practice of any profession or occupation, licensed or registered by the state, by any person
4.8 duly licensed or registered to practice the profession or occupation or to perform any act
4.9 that falls within the scope of practice of the profession or occupation.

4.10 **Sec. 4. [148.9804] PENALTY.**

4.11 A person who violates sections 148.9801 to 148.9815 is guilty of a misdemeanor. If
4.12 a person other than a licensed lactation consultant engages in an act or practice prohibited
4.13 under sections 148.9801 to 148.9815, a district court on application to the advisory council
4.14 may issue an injunction or other appropriate order restraining the act or practice.

4.15 If the advisory council finds that a licensed lactation consultant has violated the
4.16 provisions of sections 148.9801 to 148.9815 or rules adopted under those sections, the
4.17 advisory council may impose a civil penalty not exceeding \$10,000 for each separate
4.18 violation. The amount of the civil penalty shall be fixed so as to deprive the licensed
4.19 lactation consultant of any economic advantage gained by reason of the violation charged,
4.20 to discourage similar violations, or to reimburse the advisory council for the cost of the
4.21 investigation and proceeding, including, but not limited to: fees paid for services provided
4.22 by the Office of Administrative Hearings; legal and investigative services provided by
4.23 the Office of the Attorney General; services of court reporters; witnesses, reproduction of
4.24 records, board members' per diem compensation; board staff time; and expenses incurred
4.25 by board members and staff.

4.26 **Sec. 5. [148.9805] SCOPE OF PRACTICE.**

4.27 The practice of clinical lactation services by a licensed lactation consultant includes,
4.28 but is not limited to:

4.29 (1) providing education through various means, including fact sheets, counseling,
4.30 curriculum development, and multimedia campaigns about breastfeeding and human
4.31 lactation;

4.32 (2) advocating for breastfeeding women, children, and families in all settings;

4.33 (3) supporting practices that promote breastfeeding;

4.34 (4) conducting comprehensive lactation assessments, including, but not limited to:

- 5.1 (i) taking lactation histories;
 5.2 (ii) assessing oral anatomy and normal neurological responses and reflexes;
 5.3 (iii) identifying correct latching and positioning; and
 5.4 (iv) assessing milk intake;
 5.5 (5) identifying events that occurred during the pregnancy, labor, and birth process
 5.6 that may adversely affect breastfeeding;
 5.7 (6) recommending use of and providing instruction regarding assistive devices,
 5.8 when appropriate;
 5.9 (7) creating, implementing, and evaluating care plans with mothers and
 5.10 communicating the contents of care plans to primary care providers;
 5.11 (8) providing information to assist mothers in making informed decisions regarding
 5.12 breastfeeding; and
 5.13 (9) providing breastfeeding-related support to women, children, and families.

5.14 **Sec. 6. [148.9806] LICENSURE APPLICATION REQUIREMENTS.**

- 5.15 (a) An applicant for licensure must comply with the requirements in this section. To
 5.16 qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b)
 5.17 to (d) and not be subject to denial of licensure under section 148.9813.
 5.18 (b) A person who is credentialed by the International Board of Lactation Consultant
 5.19 Examiners may apply for licensure by equivalency and must meet the requirements in
 5.20 section 148.9807, subdivision 2.
 5.21 (c) A person who is credentialed by another nationally recognized credentialing
 5.22 agency may apply for licensure by equivalency and must meet the requirements in section
 5.23 148.9807, subdivision 3.
 5.24 (d) A person who is credentialed in another jurisdiction may apply for licensure by
 5.25 reciprocity and must meet the requirements in section 148.9807, subdivision 4.

5.26 **Sec. 7. [148.9807] APPLICATION REQUIREMENTS; PROCEDURE.**

- 5.27 Subdivision 1. **Application for licensure.** An applicant for licensure must:
 5.28 (1) have a current credential from the International Board of Lactation Consultant
 5.29 Examiners or another nationally recognized credentialing agency or jurisdiction whose
 5.30 standards for credentialing are determined by the commissioner to be equivalent to or
 5.31 exceed the requirements for licensure under subdivision 3, clause (1);
 5.32 (2) submit a completed application for licensure on forms provided by the
 5.33 commissioner and supply the information requested on the application, including:

- 6.1 (i) the applicant's name, business address, business telephone number, business
 6.2 setting, and daytime telephone number;
- 6.3 (ii) a description of the applicant's education and training, including a list of degrees
 6.4 received from educational institutions;
- 6.5 (iii) the applicant's work history for the six years preceding the application, including
 6.6 the number of hours worked;
- 6.7 (iv) a list of all credentials currently and previously held in Minnesota and other
 6.8 jurisdictions;
- 6.9 (v) a description of any jurisdiction's refusal to credential the applicant;
- 6.10 (vi) a description of all professional disciplinary actions initiated against the
 6.11 applicant in any jurisdiction;
- 6.12 (vii) information on any physical or mental condition or chemical dependency
 6.13 that impairs the applicant's ability to provide clinical lactation services with reasonable
 6.14 judgment or safety;
- 6.15 (viii) a description of any misdemeanor or felony conviction that relates to honesty
 6.16 or to the practice of clinical lactation services; and
- 6.17 (ix) a description of any state or federal court order, including a conciliation court
 6.18 order or a disciplinary order, related to the individual's clinical lactation services practice;
- 6.19 (3) submit with the application all fees required by section 148.9812;
- 6.20 (4) sign a statement that the information in the application is true and correct to the
 6.21 best of the applicant's knowledge and belief;
- 6.22 (5) sign a waiver authorizing the commissioner to obtain access to the applicant's
 6.23 records in this or any other state in which the applicant holds or previously held a
 6.24 credential for the practice of an occupation, completed a clinical lactation services
 6.25 education program, or engaged in the practice of clinical lactation services;
- 6.26 (6) within 30 days of a request, submit additional information as requested by the
 6.27 commissioner to clarify information in the application, including information to determine
 6.28 whether the individual has engaged in conduct warranting disciplinary action under
 6.29 section 148.9813; and
- 6.30 (7) submit the additional information required for licensure by equivalency or
 6.31 licensure by reciprocity.

6.32 **Subd. 2. Applicants credentialed by the International Board of Lactation**
 6.33 **Consultant Examiners.** An applicant who is credentialed by the International Board of
 6.34 Lactation Consultant Examiners as an International Board-Certified Lactation Consultant
 6.35 may be eligible for licensure by equivalency as a licensed lactation consultant. Nothing in
 6.36 this section limits the commissioner's authority to deny licensure based upon the grounds

7.1 for discipline in section 148.9813. Applicants under this subdivision must provide the
 7.2 materials required in subdivision 1 and must also provide:

7.3 (1) verified documentation from the International Board of Lactation Consultant
 7.4 Examiners stating that the applicant is credentialed as an International Board-Certified
 7.5 Lactation Consultant. The applicant is responsible for obtaining this documentation; and

7.6 (2) a waiver authorizing the commissioner to obtain access to the applicant's records
 7.7 maintained by the International Board of Lactation Consultant Examiners.

7.8 Subd. 3. **Applicants credentialed by another nationally recognized credentialing**
 7.9 **agency.** An applicant who is credentialed by another nationally recognized credentialing
 7.10 agency whose standards for credentialing are determined by the commissioner to be
 7.11 equivalent to or exceed the requirements for licensure under clause (1) may be eligible for
 7.12 licensure by equivalency as a licensed lactation consultant. Nothing in this section limits
 7.13 the commissioner's authority to deny licensure based upon the grounds for discipline in
 7.14 section 148.9813. Applicants under this subdivision must provide the materials required
 7.15 in subdivision 1 and must also provide:

7.16 (1) verified documentation from a nationally recognized credentialing agency that
 7.17 includes, at a minimum, the following requirements:

7.18 (i) 90 hours of lactation-specific education;

7.19 (ii) 24 academic credits of college-level health sciences courses;

7.20 (iii) six health-related continuing education courses;

7.21 (iv) 500 supervised clinical practice hours; and

7.22 (v) a passing grade on a qualifying examination; and

7.23 (2) a waiver authorizing the commissioner to obtain access to the applicant's records
 7.24 maintained by the credentialing agency described in clause (1).

7.25 Subd. 4. **Applicants credentialed in another jurisdiction.** (a) An applicant who
 7.26 holds a current credential as a licensed lactation consultant in the District of Columbia or a
 7.27 state or territory of the United States whose standards for credentialing are determined
 7.28 by the commissioner to be equivalent to or exceed the requirements for licensure under
 7.29 subdivision 3, clause (1), may be eligible for licensure by reciprocity as a licensed
 7.30 lactation consultant. Nothing in this section limits the commissioner's authority to deny
 7.31 licensure based upon the grounds for discipline in section 148.9813.

7.32 (b) Applicants under this subdivision must provide the materials required in
 7.33 subdivision 1 and must also request that the appropriate government body in each
 7.34 jurisdiction in which the applicant holds or held credentials as a licensed lactation
 7.35 consultant or substantially similar title send a letter to the commissioner verifying the
 7.36 applicant's credentials. A license shall not be issued until the commissioner receives a

8.1 letter verifying each of the applicant's credentials. Each letter must include the applicant's
8.2 name and date of birth, credential number and date of issuance, a statement regarding
8.3 investigations pending and disciplinary actions taken or pending against the applicant,
8.4 current status of the credential, and the terms under which the credential was issued.

8.5 Subd. 5. **Action on applications for licensure.** (a) The commissioner shall
8.6 approve, approve with conditions, or deny licensure. The commissioner shall act on an
8.7 application for licensure according to paragraphs (b) to (d).

8.8 (b) The commissioner shall determine if the applicant meets the requirements for
8.9 licensure. The commissioner, or the advisory council at the commissioner's request, may
8.10 investigate information provided by an applicant to determine whether the information
8.11 is accurate and complete.

8.12 (c) The commissioner shall notify an applicant of action taken on the application
8.13 and, if licensure is denied or approved with conditions, the grounds for the commissioner's
8.14 determination.

8.15 (d) An applicant denied licensure or granted licensure with conditions may make
8.16 a written request to the commissioner, within 30 days of the date of the commissioner's
8.17 determination, for reconsideration of the commissioner's determination. Individuals
8.18 requesting reconsideration may submit information which the applicant wants considered
8.19 in the reconsideration. After reconsideration of the commissioner's determination to deny
8.20 licensure or grant licensure with conditions, the commissioner shall determine whether
8.21 the original determination should be affirmed or modified. An applicant is allowed no
8.22 more than one request in any one biennial licensure period for reconsideration of the
8.23 commissioner's determination to deny licensure or approve licensure with conditions.

8.24 **Sec. 8. [148.9808] LICENSURE RENEWAL.**

8.25 Subdivision 1. **Renewal requirements.** To be eligible for licensure renewal, a
8.26 licensee must:

8.27 (1) submit a completed and signed application for licensure renewal on forms
8.28 provided by the commissioner;

8.29 (2) submit the renewal fee required under section 148.9812;

8.30 (3) submit proof that the licensee is currently credentialed by the International Board
8.31 of Lactation Consultant Examiners, another nationally recognized credentialing agency
8.32 as described in section 148.9807, subdivision 3, or another jurisdiction as described in
8.33 section 148.9807, subdivision 4; and

9.1 (4) submit additional information as requested by the commissioner to clarify
9.2 information presented in the renewal application. The information must be submitted
9.3 within 30 days after the commissioner's request.

9.4 Subd. 2. **Renewal deadline.** (a) Except as provided in paragraph (c), licenses must
9.5 be renewed every two years. Licensees must comply with the procedures in paragraphs
9.6 (b) to (e).

9.7 (b) Each license must state an expiration date. An application for licensure renewal
9.8 must be received by the Department of Health or postmarked at least 30 calendar days
9.9 before the expiration date. If the postmark is illegible, the application shall be considered
9.10 timely if received at least 21 calendar days before the expiration date.

9.11 (c) If the commissioner changes the renewal schedule and the new expiration date is
9.12 less than two years in the future, the fee to be reported at the next renewal must be prorated.

9.13 (d) An application for licensure renewal not received within the time required under
9.14 paragraph (b), but received on or before the expiration date, must be accompanied by a
9.15 late fee in addition to the renewal fee specified in section 148.9812.

9.16 (e) Licensure renewals received after the expiration date shall not be accepted and
9.17 persons seeking licensed status must comply with the requirements of section 148.9809.

9.18 Subd. 3. **Licensure renewal notice.** At least 60 calendar days before the expiration
9.19 date in subdivision 2, the commissioner shall mail a renewal notice to the licensee's last
9.20 known address on file with the commissioner. The notice must include an application for
9.21 licensure renewal and notice of fees required for renewal. The licensee's failure to receive
9.22 notice does not relieve the licensee of the obligation to meet the renewal deadline and
9.23 other requirements for licensure renewal.

9.24 Sec. 9. **[148.9809] LICENSURE RENEWAL; AFTER EXPIRATION DATE.**

9.25 Subdivision 1. **Removal of name from list.** The names of licensees who do not
9.26 comply with the licensure renewal requirements in section 148.9808 on or before the
9.27 expiration date shall be removed from the list of individuals authorized to provide clinical
9.28 lactation services and to use the protected title of licensed lactation consultant. Licensees
9.29 whose names are removed must comply with the requirements of this section in order
9.30 to regain licensed status.

9.31 Subd. 2. **Licensure renewal after expiration date.** An individual whose
9.32 application for licensure renewal is received after the licensure expiration date must
9.33 submit the following:

9.34 (1) a completed and signed application for licensure following lapse in licensed
9.35 status on forms provided by the commissioner;

10.1 (2) the renewal fee and the late fee required under section 148.9812;

10.2 (3) proof that the licensee is currently credentialed by the International Board of
10.3 Lactation Consultant Examiners, another nationally recognized credentialing agency
10.4 as described in section 148.9807, subdivision 3, or another jurisdiction as described in
10.5 section 148.9807, subdivision 4; and

10.6 (4) additional information as requested by the commissioner to clarify information in
10.7 the application, including information to determine whether the individual has engaged in
10.8 conduct warranting disciplinary action as set forth in section 148.9813. This information
10.9 must be submitted within 30 days after the commissioner's request.

10.10 **Sec. 10. [148.9810] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

10.11 A licensee who changes a name, address, or employment must inform the
10.12 commissioner, in writing, of the change of name, address, employment, business address,
10.13 or business telephone number within 30 days. A change in name must be accompanied by
10.14 a copy of a marriage certificate or court order. All notices or other correspondence mailed
10.15 to or served on a licensee by the commissioner at the licensee's address on file with the
10.16 commissioner shall be considered as having been received by the licensee.

10.17 **Sec. 11. [148.9811] RECIPIENT NOTIFICATION.**

10.18 Subdivision 1. **Required notification.** In the absence of a physician referral or
10.19 prior authorization, and before providing clinical lactation services for remuneration or
10.20 expectation of payment from the client, a licensed lactation consultant must provide the
10.21 following written notification in all capital letters of 12-point or larger boldface type to
10.22 the client, parent, or guardian: "Your health care provider, insurer, or plan may require a
10.23 physician referral or prior authorization and you may be obligated for partial or full payment
10.24 for clinical lactation services rendered." Information other than this notification may be
10.25 included as long as the notification remains conspicuous on the face of the document. A
10.26 nonwritten disclosure format may be used to satisfy the recipient notification requirement
10.27 when necessary to accommodate the physical condition of a client or client's guardian.

10.28 Subd. 2. **Evidence of recipient notification.** The licensed lactation consultant
10.29 is responsible for providing evidence of compliance with the recipient notification
10.30 requirement of this section.

10.31 **Sec. 12. [148.9812] FEES.**

11.1 Subdivision 1. **Initial licensure fee.** The initial licensure fee for licensed lactation
11.2 consultants is \$80. The commissioner shall prorate fees based on the number of quarters
11.3 remaining in the biennial licensure period.

11.4 Subd. 2. **Licensure renewal fee.** The biennial licensure renewal fee for licensed
11.5 lactation consultants is \$80.

11.6 Subd. 3. **Duplicate license fee.** The fee for a duplicate license is \$25.

11.7 Subd. 4. **Late fee.** The fee for late submission of a renewal application is \$25.

11.8 Subd. 5. **Verification to other states.** The fee for verification of licensure to other
11.9 states is \$25.

11.10 Subd. 6. **Use of fees.** All fees are nonrefundable. The commissioner shall only use
11.11 fees collected under this section for the purposes of administering sections 148.9801 to
11.12 148.9815. The legislature must not transfer money generated by these fees from the
11.13 state government special revenue fund to the general fund. Surcharges collected by the
11.14 commissioner of health under section 16E.22 are not subject to this subdivision.

11.15 Subd. 7. **Penalty fees.** (a) The penalty fee for using the protected title of licensed
11.16 lactation consultant without a current license after the credential has expired and before it
11.17 is renewed is the amount of the license renewal fee for any part of the first month, plus the
11.18 license renewal fee for any part of any subsequent month up to 36 months.

11.19 (b) The penalty fee for applicants who use the protected title of licensed lactation
11.20 consultant before being issued a license is the amount of the license application fee for
11.21 any part of the first month, plus the license application fee for any part of any subsequent
11.22 month up to 36 months.

11.23 (c) For conduct described in paragraph (a) or (b) exceeding six months, payment
11.24 of a penalty fee does not preclude any disciplinary action reasonably justified by the
11.25 individual case.

11.26 Sec. 13. **[148.9813] GROUNDS FOR DISCIPLINE OR DENIAL OF**
11.27 **LICENSURE; INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

11.28 Subdivision 1. **Grounds for discipline or denial of licensure.** The commissioner
11.29 may deny an application for licensure, may approve licensure with conditions, or may
11.30 discipline a licensee using any disciplinary action listed in subdivision 3 on proof that
11.31 the individual has:

11.32 (1) intentionally submitted false or misleading information to the commissioner
11.33 or the advisory council;

11.34 (2) failed, within 30 days, to provide information in response to a written request
11.35 by the commissioner or advisory council;

- 12.1 (3) performed services of a licensed lactation consultant in an incompetent manner
12.2 or in a manner that falls below the community standard of care;
- 12.3 (4) violated a provision of sections 148.9801 to 148.9815;
- 12.4 (5) aided or abetted another person in violating a provision of sections 148.9801 to
12.5 148.9815;
- 12.6 (6) failed to perform services with reasonable judgment, skill, or safety due to the
12.7 use of alcohol or drugs, or other physical or mental impairment;
- 12.8 (7) been convicted of violating any state or federal law, rule, or regulation which
12.9 directly relates to the practice of clinical lactation services;
- 12.10 (8) been disciplined for conduct in the practice of an occupation by the state of
12.11 Minnesota, another jurisdiction, or a national professional association, if any of the
12.12 grounds for discipline are the same or substantially equivalent to those in sections
12.13 148.9801 to 148.9815;
- 12.14 (9) not cooperated with the commissioner or advisory council in an investigation
12.15 conducted according to subdivision 2;
- 12.16 (10) advertised in a manner that is false or misleading;
- 12.17 (11) engaged in dishonest, unethical, or unprofessional conduct in connection with the
12.18 practice of clinical lactation services that is likely to deceive, defraud, or harm the public;
- 12.19 (12) demonstrated a willful or careless disregard for the health, welfare, or safety
12.20 of a client;
- 12.21 (13) performed medical diagnosis or provided treatment without being licensed to
12.22 do so under the laws of this state;
- 12.23 (14) paid or promised to pay a commission or part of a fee to any person who
12.24 contacts the licensed lactation consultant for consultation or sends patients to the licensed
12.25 lactation consultant for treatment;
- 12.26 (15) engaged in abusive or fraudulent billing practices, including violations of
12.27 federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state
12.28 medical assistance laws;
- 12.29 (16) obtained money, property, or services from a consumer through the use of
12.30 undue influence, high-pressure sales tactics, harassment, duress, deception, or fraud;
- 12.31 (17) performed services for a client who had no possibility of benefiting from the
12.32 services;
- 12.33 (18) failed to refer a client for medical evaluation when appropriate or when a client
12.34 indicated symptoms associated with diseases that could be medically or surgically treated;

13.1 (19) engaged in conduct with a client that is sexual, or may reasonably be interpreted
13.2 by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning
13.3 to a client;

13.4 (20) violated a federal or state court order, including a conciliation court judgment,
13.5 or a disciplinary order issued by the commissioner, related to the person's clinical lactation
13.6 services practice; or

13.7 (21) any other just cause related to the practice of clinical lactation services.

13.8 **Subd. 2. Investigation of complaints.** The commissioner, or the advisory council
13.9 when authorized by the commissioner, may initiate an investigation upon receiving a
13.10 complaint or other oral or written communication that alleges or implies that a person has
13.11 violated sections 148.9801 to 148.9815. In the receipt, investigation, and hearing of a
13.12 complaint that alleges or implies that a person has violated sections 148.9801 to 148.9815,
13.13 the commissioner shall follow the procedures in section 214.10.

13.14 **Subd. 3. Disciplinary action.** If the commissioner finds that a licensed lactation
13.15 consultant should be disciplined according to subdivision 1, the commissioner may take
13.16 any one or more of the following actions:

13.17 (1) refuse to grant or renew licensure;

13.18 (2) approve licensure with conditions;

13.19 (3) revoke licensure;

13.20 (4) suspend licensure;

13.21 (5) any reasonable lesser action including, but not limited to, reprimand or restriction
13.22 on licensure; or

13.23 (6) any action authorized by statute.

13.24 **Subd. 4. Effect of specific disciplinary action on use of title.** Upon notice from
13.25 the commissioner denying licensure renewal or upon notice that disciplinary actions have
13.26 been imposed and the person is no longer entitled to provide clinical lactation services and
13.27 use the protected title of licensed lactation consultant, the person shall cease to provide
13.28 clinical lactation services, to use the title protected by sections 148.9801 to 148.9815, and
13.29 to represent to the public that the person is licensed by the commissioner.

13.30 **Subd. 5. Reinstatement requirements after disciplinary action.** A person who
13.31 has had licensure suspended may request and provide justification for reinstatement
13.32 following the period of suspension specified by the commissioner. The requirements
13.33 of section 148.9809 for renewing licensure and any other conditions imposed with the
13.34 suspension must be met before licensure may be reinstated.

13.35 **Subd. 6. Authority to contract.** The commissioner shall contract with the health
13.36 professionals services program as authorized by sections 214.31 to 214.37 to provide these

14.1 services to practitioners under sections 148.9801 to 148.9815. The health professionals
14.2 services program does not affect the commissioner's authority to discipline violations of
14.3 sections 148.9801 to 148.9815.

14.4 Sec. 14. **[148.9814] LICENSED LACTATION CONSULTANTS ADVISORY**
14.5 **COUNCIL.**

14.6 Subdivision 1. **Membership.** The commissioner shall appoint five persons to a
14.7 Licensed Lactation Consultants Advisory Council consisting of the following:

14.8 (1) two public members, as defined in section 214.02. The public members shall
14.9 be either persons who have received clinical lactation services or family members of or
14.10 caregivers to such persons;

14.11 (2) two members who are licensed lactation consultants licensed under sections
14.12 148.9801 to 148.9815; and

14.13 (3) one member who is a licensed or registered health care practitioner, or other
14.14 credentialed practitioner, who works collaboratively with licensed lactation consultants.

14.15 Subd. 2. **Duties.** At the commissioner's request, the advisory council shall:

14.16 (1) advise the commissioner regarding the licensed lactation consultant licensure
14.17 standards;

14.18 (2) advise the commissioner on enforcement of sections 148.9801 to 148.9815;

14.19 (3) provide for distribution of information regarding licensed lactation consultant
14.20 licensure standards;

14.21 (4) review applications and make recommendations to the commissioner on granting
14.22 or denying licensure or licensure renewal;

14.23 (5) review reports of investigations relating to individuals and make
14.24 recommendations to the commissioner as to whether licensure should be denied or
14.25 disciplinary action taken against the person; and

14.26 (6) perform other duties authorized for advisory councils by chapter 214, as directed
14.27 by the commissioner.

14.28 Sec. 15. **[148.9815] TASK FORCE.**

14.29 The commissioner may create an advisory task force pursuant to section 15.014 to
14.30 engage relevant stakeholders and create and implement strategies to assist members of
14.31 underserved populations in obtaining licensure under sections 148.9801 to 148.9815.