

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1413

02/20/2017 Authored by Franson
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; requiring a report; proposing coding for new law in Minnesota
1.4 Statutes, chapter 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 148.9813 apply to persons who are applicants
1.8 for licensure, who are licensed, who use protected titles, or who represent that they are
1.9 licensed under sections 148.9801 to 148.9813.

1.10 Subd. 2. **Application.** Nothing in sections 148.9801 to 148.9813 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 148.9813.

1.13 Sec. 2. [148.9802] DEFINITIONS.

1.14 Subdivision 1. **Application.** For purposes of sections 148.9801 to 148.9813, the following
1.15 terms have the meanings given.

1.16 Subd. 2. **Biennial licensure period.** "Biennial licensure period" means the two-year
1.17 period for which licensure is effective.

1.18 Subd. 3. **Breastfeeding education and support services.** "Breastfeeding education and
1.19 support services" refers to services such as educating women, families, health professionals,
1.20 and the community about the impact of breastfeeding and human lactation on health and
1.21 what to expect in the normal course of breastfeeding; facilitating the development of policies
1.22 that protect, promote, and support breastfeeding; acting as an advocate for breastfeeding as

2.1 the child-feeding norm; providing holistic breastfeeding support, encouragement, and care
2.2 from preconception to weaning in order to help women and their families meet their
2.3 breastfeeding goals; using principles of adult education when teaching clients, health care
2.4 providers, and others in the community; and identifying and referring high-risk mothers
2.5 and babies and those requiring clinical treatment to licensed providers. Any individual, with
2.6 or without a license, may provide breastfeeding education and support services.

2.7 Subd. 4. **Certified lactation counselor, advanced lactation consultant, or advanced**
2.8 **nurse lactation consultant.** "Certified lactation counselor, advanced lactation consultant,
2.9 or advanced nurse lactation consultant" means an individual who possesses certification
2.10 from the Academy of Lactation Policy and Practice of the Healthy Children Project, Inc.

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

2.21 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of health or a
2.22 designee.

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

2.26 Subd. 8. **International board-certified lactation consultant.** "International
2.27 board-certified lactation consultant" means an individual who possesses certification from
2.28 the International Board of Lactation Consultant Examiners as accredited by the National
2.29 Commission for Certifying Agencies.

2.30 Subd. 9. **License or licensed.** "License" or "licensed" means the act or status of a natural
2.31 person who meets the requirements of sections 148.9801 to 148.9813.

2.32 Subd. 10. **Licensed lactation care provider.** "Licensed lactation care provider" means
2.33 an individual who meets the requirements of sections 148.9801 to 148.9813, is licensed by

3.1 the commissioner, and is permitted to provide clinical lactation services and use the titles
 3.2 authorized in this section and section 148.9803.

3.3 Subd. 11. **Licensee.** "Licensee" means a person who meets the requirements of sections
 3.4 148.9801 to 148.9813.

3.5 Subd. 12. **Licensure by equivalency.** "Licensure by equivalency" means a method of
 3.6 licensure described in section 148.9806, subdivision 2, by which an individual who possesses
 3.7 a credential from the International Board of Lactation Consultant Examiners as accredited
 3.8 by the National Commission for Certifying Agencies, from the Academy of Lactation Policy
 3.9 and Practice of the Healthy Children Project, Inc., or from another nationally recognized
 3.10 credentialing agency may qualify for licensure.

3.11 Subd. 13. **Licensure by reciprocity.** "Licensure by reciprocity" means a method of
 3.12 licensure described in section 148.9806, subdivision 3, by which an individual who possesses
 3.13 a credential from another jurisdiction may qualify for Minnesota licensure.

3.14 Subd. 14. **Protected title.** "Protected title" means the title of licensed lactation consultant,
 3.15 licensed certified lactation counselor, licensed advanced lactation consultant, licensed
 3.16 advanced nurse lactation consultant, or licensed international board-certified lactation
 3.17 consultant.

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

3.20 Subdivision 1. **Unlicensed practice prohibited.** No person shall engage in the practice
 3.21 of clinical lactation services unless the person is licensed as a lactation care provider in
 3.22 accordance with sections 148.9801 to 148.9813.

3.23 Subd. 2. **Protected titles and restrictions on use.** (a) The terms or phrases "licensed
 3.24 international board-certified lactation consultant" or "licensed lactation consultant" alone
 3.25 or in combination can only be used by an individual licensed under sections 148.9801 to
 3.26 148.9813 and who possesses a credential from the International Board of Lactation Consultant
 3.27 Examiners as accredited by the National Commission for Certifying Agencies.

3.28 (b) The terms or phrases "licensed certified lactation counselor," "certified lactation
 3.29 counselor," "licensed advanced lactation consultant," "advanced lactation consultant,"
 3.30 "licensed advanced nurse lactation consultant," "advanced nurse lactation consultant,"
 3.31 "licensed lactation counselor," or "licensed lactation consultant" alone or in combination
 3.32 can only be used by an individual licensed under sections 148.9801 to 148.9813 and who

4.1 possesses a credential from the Academy of Lactation Policy and Practice of the Healthy
4.2 Children Project, Inc.

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

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

4.8 (2) a student participating in supervised fieldwork or supervised coursework that is
4.9 necessary to meet the requirements of sections 148.9801 to 148.9813 if the student is
4.10 designated by a title which clearly indicates the student's status as a student trainee. Any
4.11 use of the protected titles under these circumstances is allowed only while the person is
4.12 performing the duties of the supervised fieldwork or supervised coursework;

4.13 (3) a person visiting and then leaving the state and performing clinical lactation services
4.14 while in the state if the services are performed no more than 30 days in a calendar year as
4.15 part of a professional activity that is limited in scope and duration and is in association with
4.16 a licensed lactation care provider licensed under sections 148.9801 to 148.9813, and:

4.17 (i) the person is credentialed under the law of another state which has credentialing
4.18 requirements at least as stringent as the requirements of sections 148.9801 to 148.9813;

4.19 (ii) the person meets the requirements for certification as an international board-certified
4.20 lactation consultant established by the International Board of Lactation Consultant Examiners
4.21 as accredited by the National Commission for Certifying Agencies; or

4.22 (iii) the person is certified as a certified lactation counselor, advanced lactation consultant,
4.23 or advanced nurse lactation consultant by the Academy of Lactation Policy and Practice of
4.24 the Healthy Children Project, Inc.;

4.25 (4) a person licensed to practice as a dentist under chapter 150A, physician or osteopath
4.26 under chapter 147, nurse under sections 148.171 to 148.285, physician assistant under
4.27 chapter 147A, dietitian under sections 148.621 to 148.634, or midwife under chapter 147D,
4.28 when providing clinical lactation services incidental to the practice of the person's profession,
4.29 except the person shall not use the protected titles;

4.30 (5) an employee of a department, agency, or division of state, county, or local government,
4.31 when providing clinical lactation services within the discharge of the employee's official
4.32 duties including, but not limited to, peer counselors in the Special Supplemental Nutrition
4.33 Program for Women, Infants, and Children; or

5.1 (6) a volunteer providing clinical lactation services, if:

5.2 (i) the volunteer does not use the protected titles or represent that the volunteer is licensed
 5.3 or has the clinical skills and abilities associated with licensure;

5.4 (ii) the volunteer service is performed for free, with no fee charged to or payment,
 5.5 monetary or otherwise, provided by the individual or group served; and

5.6 (iii) the volunteer receives no compensation, monetary or otherwise, except for
 5.7 administrative expenses including, but not limited to, mileage.

5.8 Subd. 4. **Sanctions.** A person who practices clinical lactation services or represents that
 5.9 they are a licensed lactation care provider by or through the use of any title described in
 5.10 subdivision 2 without prior licensure according to sections 148.9801 to 148.9813 is subject
 5.11 to sanctions or action against continuing the activity according to section 148.9804, chapter
 5.12 214, or other statutory authority.

5.13 Subd. 5. **Exemption.** Nothing in sections 148.9801 to 148.9813 shall prohibit the practice
 5.14 of any profession or occupation, licensed or registered by the state, by any person duly
 5.15 licensed or registered to practice the profession or occupation or to perform any act that
 5.16 falls within the scope of practice of the profession or occupation.

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

5.18 If the commissioner finds that a licensed lactation care provider has violated the
 5.19 provisions of sections 148.9801 to 148.9813 or rules adopted under those sections, the
 5.20 commissioner may impose a civil penalty not exceeding \$10,000 for each separate violation.
 5.21 The amount of the civil penalty shall be fixed so as to deprive the licensed lactation care
 5.22 provider of any economic advantage gained by reason of the violation charged, to discourage
 5.23 similar violations, and to reimburse the commissioner for the cost of the investigation and
 5.24 proceeding, including, but not limited to: fees paid for services provided by the Office of
 5.25 Administrative Hearings; legal and investigative services provided by the Office of the
 5.26 Attorney General; services of court reporters; witnesses; and reproduction of records.

5.27 **Sec. 5. [148.9806] APPLICATION REQUIREMENTS; PROCEDURE.**

5.28 Subdivision 1. **Application for licensure.** An applicant for licensure must:

5.29 (1) have a current certification from the International Board of Lactation Consultant
 5.30 Examiners as accredited by the National Commission for Certifying Agencies, the Academy
 5.31 of Lactation Policy and Practice of the Healthy Children Project, Inc., or another jurisdiction

6.1 whose standards for credentialing are determined by the commissioner to be equivalent to
6.2 or exceed the requirements for licensure under subdivision 2;

6.3 (2) submit a completed application for licensure on forms provided by the commissioner
6.4 and supply the information requested on the application, including:

6.5 (i) the applicant's name, business address, business telephone number, business setting,
6.6 and daytime telephone number;

6.7 (ii) a description of the applicant's education and training, including a list of degrees
6.8 received from educational institutions;

6.9 (iii) the applicant's work history for the six years preceding the application, including
6.10 the number of hours worked;

6.11 (iv) a list of all lactation consulting credentials currently and previously held in Minnesota
6.12 and other jurisdictions;

6.13 (v) a description of any jurisdiction's refusal to credential the applicant;

6.14 (vi) a description of all professional disciplinary actions initiated against the applicant
6.15 in any jurisdiction;

6.16 (vii) information on any physical or mental condition or chemical dependency that
6.17 impairs the applicant's ability to provide clinical lactation services with reasonable judgment
6.18 or safety;

6.19 (viii) a description of any misdemeanor, gross misdemeanor, or felony conviction that
6.20 is reasonably related to the practice of clinical lactation services; and

6.21 (ix) a description of any state or federal court order, including a conciliation court order
6.22 or a disciplinary order, related to the individual's clinical lactation services practice;

6.23 (3) submit with the application all fees required by section 148.9812;

6.24 (4) sign a statement that the information in the application is true and correct to the best
6.25 of the applicant's knowledge and belief;

6.26 (5) sign a waiver authorizing the commissioner to obtain access to the applicant's records
6.27 in this or any other state in which the applicant holds or previously held a credential for the
6.28 practice of an occupation, completed a clinical lactation services education program, or
6.29 engaged in the practice of clinical lactation services;

6.30 (6) within 30 days of a request, submit additional information as requested by the
6.31 commissioner to clarify information in the application, including information to determine

7.1 whether the individual has engaged in conduct warranting disciplinary action under section
7.2 148.9813; and

7.3 (7) submit the additional information required for licensure by equivalency or licensure
7.4 by reciprocity.

7.5 Subd. 2. **Credentialed applicants.** An applicant who is credentialed by the International
7.6 Board of Lactation Consultant Examiners as accredited by the National Commission for
7.7 Certifying Agencies as an international board-certified lactation consultant or an applicant
7.8 who is credentialed by the Academy of Lactation Policy and Practice of the Healthy Children
7.9 Project, Inc. may be eligible for licensure by equivalency as a licensed lactation care provider.
7.10 Nothing in this section limits the commissioner's authority to deny licensure based upon
7.11 the grounds for discipline in section 148.9813. Applicants under this subdivision must
7.12 provide the materials required in subdivision 1 and must also provide:

7.13 (1) verified documentation from the International Board of Lactation Consultant
7.14 Examiners stating that the applicant is credentialed as an international board-certified
7.15 lactation consultant, or verified documentation from the Academy of Lactation Policy and
7.16 Practice of the Healthy Children Project, Inc., that the applicant is credentialed as a certified
7.17 lactation counselor, advanced lactation consultant, or advanced nurse lactation consultant.
7.18 The applicant is responsible for obtaining this documentation; and

7.19 (2) a waiver authorizing the commissioner to obtain access to the applicant's records
7.20 maintained by the International Board of Lactation Consultant Examiners or the Academy
7.21 of Lactation Policy and Practice of the Healthy Children Project, Inc.

7.22 Subd. 3. **Applicants credentialed in another jurisdiction.** (a) An applicant who holds
7.23 a current credential as a licensed lactation consultant, licensed lactation care provider, or
7.24 licensed lactation counselor in the District of Columbia or a state or territory of the United
7.25 States whose standards for credentialing are determined by the commissioner to be equivalent
7.26 to or exceed the requirements for licensure under subdivision 2, may be eligible for licensure
7.27 by reciprocity as a licensed lactation care provider. Nothing in this section limits the
7.28 commissioner's authority to deny licensure based upon the grounds for discipline in section
7.29 148.9813.

7.30 (b) Applicants under this subdivision must provide the materials required in subdivision
7.31 1 and must also request that the appropriate government body in each jurisdiction in which
7.32 the applicant holds or held credentials as a licensed lactation care provider or substantially
7.33 similar title send a letter to the commissioner verifying the applicant's credentials. A license
7.34 shall not be issued until the commissioner receives a letter verifying each of the applicant's

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

8.5 Subd. 4. **Action on applications for licensure.** (a) The commissioner shall approve,
 8.6 approve with conditions, or deny licensure. The commissioner shall act on an application
 8.7 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 may investigate information provided by an applicant to
 8.10 determine whether the information is accurate and complete.

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

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

8.23 **Sec. 6. [148.9807] LICENSURE RENEWAL.**

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

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

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

8.29 (3) submit proof that the licensee is currently credentialed by the International Board of
 8.30 Lactation Consultant Examiners as accredited by the National Commission for Certifying
 8.31 Agencies, the Academy of Lactation Policy and Practice of the Healthy Children Project,
 8.32 Inc., or another jurisdiction as described in section 148.9806; and

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

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

9.7 (b) Each license must state an expiration date. An application for licensure renewal must
9.8 be received by the Department of Health at least 30 calendar days before the expiration
9.9 date.

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

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

9.15 (e) Licensure renewals received after the expiration date shall not be accepted and persons
9.16 seeking licensed status must comply with the requirements of section 148.9808.

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

9.22 Sec. 7. **[148.9808] LICENSURE RENEWAL; AFTER EXPIRATION DATE.**

9.23 An individual whose application for licensure renewal is received after the licensure
9.24 expiration date must submit the following:

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

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

9.28 (3) proof that the licensee is currently credentialed by the International Board of Lactation
9.29 Consultant Examiners, the Academy of Lactation Policy and Practice of the Healthy Children
9.30 Project, Inc., or another jurisdiction as described in section 148.9806; and

9.31 (4) additional information as requested by the commissioner to clarify information in
9.32 the application, including information to determine whether the individual has engaged in

10.1 conduct warranting disciplinary action as set forth in section 148.9813. This information
10.2 must be submitted within 30 days after the commissioner's request.

10.3 **Sec. 8. [148.9809] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

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

10.10 **Sec. 9. [148.9811] RECIPIENT NOTIFICATION.**

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

10.21 Subd. 2. **Evidence of recipient notification.** The licensed lactation care provider is
10.22 responsible for providing evidence of compliance with the recipient notification requirement
10.23 of this section.

10.24 **Sec. 10. [148.9812] FEES.**

10.25 Subdivision 1. **Initial licensure fee.** The initial licensure fee for licensed lactation care
10.26 providers is \$80. The commissioner shall prorate fees based on the number of quarters
10.27 remaining in the biennial licensure period.

10.28 Subd. 2. **Licensure renewal fee.** The biennial licensure renewal fee for licensed lactation
10.29 care providers is \$80.

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

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

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

11.3 Subd. 6. **Use of fees.** All fees are nonrefundable. Fees collected under this section shall
 11.4 be deposited in the state treasury and credited to the state government special revenue fund
 11.5 for the purposes of administering sections 148.9801 to 148.9813.

11.6 Subd. 7. **Penalty fee.** (a) The penalty for using one of the protected titles without a
 11.7 current license after the credential has expired and before it is renewed is the amount of the
 11.8 license renewal fee for any part of the first month, plus the license renewal fee for any part
 11.9 of any subsequent month up to 36 months.

11.10 (b) The penalty for applicants who use the protected title of licensed lactation care
 11.11 provider before being issued a license is the amount of the license application fee for any
 11.12 part of the first month, plus the license application fee for any part of any subsequent month
 11.13 up to 36 months.

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

11.16 Sec. 11. **[148.9813] GROUNDS FOR DISCIPLINE OR DENIAL OF LICENSURE;**
 11.17 **INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

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

11.22 (1) intentionally submitted false or misleading information to the commissioner;

11.23 (2) failed, within 30 days, to provide information in response to a written request by the
 11.24 commissioner;

11.25 (3) performed services of a licensed lactation care provider in an incompetent manner,
 11.26 in a manner that is outside of the provider's scope of practice, or in a manner that falls below
 11.27 the community standard of care;

11.28 (4) violated a provision of sections 148.9801 to 148.9813;

11.29 (5) aided or abetted another person in violating a provision of sections 148.9801 to
 11.30 148.9813;

11.31 (6) failed to perform services with reasonable judgment, skill, or safety due to the use
 11.32 of alcohol or drugs, or other physical or mental impairment;

- 12.1 (7) been convicted of violating any state or federal law, rule, or regulation which directly
12.2 relates to the practice of clinical lactation services;
- 12.3 (8) been disciplined for conduct in the practice of an occupation by the state of Minnesota,
12.4 another jurisdiction, or a national professional association, if any of the grounds for discipline
12.5 are the same or substantially equivalent to those in sections 148.9801 to 148.9813;
- 12.6 (9) not cooperated with the commissioner in an investigation conducted according to
12.7 subdivision 2;
- 12.8 (10) advertised in a manner that is false or misleading;
- 12.9 (11) engaged in dishonest, unethical, or unprofessional conduct in connection with the
12.10 practice of clinical lactation services that is likely to deceive, defraud, or harm the public;
- 12.11 (12) demonstrated a willful or careless disregard for the health, welfare, or safety of a
12.12 client;
- 12.13 (13) performed medical diagnosis or provided treatment without being licensed to do
12.14 so under the laws of this state;
- 12.15 (14) paid or promised to pay a commission or part of a fee to any person who contacts
12.16 the licensed lactation care provider for consultation or sends patients to the licensed lactation
12.17 care provider for treatment;
- 12.18 (15) engaged in abusive or fraudulent billing practices, including violations of federal
12.19 Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical
12.20 assistance laws;
- 12.21 (16) obtained money, property, or services from a consumer through the use of undue
12.22 influence, high-pressure sales tactics, harassment, duress, deception, or fraud;
- 12.23 (17) performed services for a client who had no possibility of benefiting from the services;
- 12.24 (18) failed to refer a client for medical evaluation when appropriate or when a client
12.25 indicated symptoms associated with diseases that could be medically or surgically treated;
- 12.26 (19) engaged in conduct with a client that is sexual, or may reasonably be interpreted
12.27 by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to
12.28 a client;
- 12.29 (20) violated a federal or state court order, including a conciliation court judgment, or
12.30 a disciplinary order issued by the commissioner, related to the person's clinical lactation
12.31 services practice; or

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

13.2 Subd. 2. **Investigation of complaints.** The commissioner may initiate an investigation
13.3 upon receiving a complaint or other oral or written communication that alleges or implies
13.4 that a person has violated sections 148.9801 to 148.9813. In the receipt, investigation, and
13.5 hearing of a complaint that alleges or implies that a person has violated sections 148.9801
13.6 to 148.9813, the commissioner shall follow the procedures in section 214.10.

13.7 Subd. 3. **Disciplinary action.** If the commissioner finds that a licensed lactation care
13.8 provider should be disciplined according to subdivision 1, the commissioner may take any
13.9 one or more of the following actions:

13.10 (1) refuse to grant or renew licensure;

13.11 (2) approve licensure with conditions;

13.12 (3) revoke licensure;

13.13 (4) suspend licensure;

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

13.16 (6) any action authorized by statute.

13.17 Subd. 4. **Effect of specific disciplinary action on use of title.** Upon notice from the
13.18 commissioner denying licensure renewal or upon notice that disciplinary actions have been
13.19 imposed and the person is no longer entitled to provide clinical lactation services and use
13.20 one of the protected titles, the person shall cease to provide clinical lactation services, to
13.21 use the title protected by sections 148.9801 to 148.9813, and to represent to the public that
13.22 the person is licensed by the commissioner.

13.23 Subd. 5. **Reinstatement requirements after disciplinary action.** A person who has
13.24 had licensure suspended may request and provide justification for reinstatement following
13.25 the period of suspension specified by the commissioner. The requirements of section
13.26 148.9808 for renewing licensure and any other conditions imposed with the suspension
13.27 must be met before licensure may be reinstated.

13.28 Subd. 6. **Authority to contract.** The commissioner shall contract with the health
13.29 professionals services program as authorized by sections 214.31 to 214.37 to provide these
13.30 services to practitioners under sections 148.9801 to 148.9813. The health professionals
13.31 services program does not affect the commissioner's authority to discipline violations of
13.32 sections 148.9801 to 148.9813.

14.1 Sec. 12. **STAKEHOLDER ENGAGEMENT.**

14.2 The commissioner of health shall work with community stakeholders in Minnesota
14.3 including, but not limited to, the Minnesota Breastfeeding Coalition; the women, infants,
14.4 and children program; hospitals and clinics; local public health professionals and
14.5 organizations; community-based organizations; and representatives of populations with low
14.6 breastfeeding rates to carry out a study identifying barriers, challenges, and successes
14.7 affecting initiation, duration, and exclusivity of breastfeeding. The study shall address policy,
14.8 systemic, and environmental factors that both support and create barriers to breastfeeding.
14.9 These factors include, but are not limited to, issues such as levels of practice and barriers
14.10 such as education, clinical experience, and cost to those seeking certification as an
14.11 international board-certified lactation consultant. The study shall identify and make
14.12 recommendations regarding culturally appropriate practices that have been shown to increase
14.13 breastfeeding rates in populations that have the greatest breastfeeding disparity rates. A
14.14 report on the study must be completed and submitted to the chairs and ranking minority
14.15 members of the legislative committees with jurisdiction over health care policy and finance
14.16 on or before September 15, 2018.

14.17 Sec. 13. **EFFECTIVE DATE.**

14.18 Sections 1 to 11 are effective July 1, 2018.