

HOUSE No. 946

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to increase access to lactation care and services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/18/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/19/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/23/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>5/5/2023</i>

HOUSE No. 946

By Representative Barber of Somerville, a petition (accompanied by bill, House, No. 946) of Christine P. Barber, Lindsay N. Sabadosa and Natalie M. Higgins for legislation to increase access to lactation care and services. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to increase access to lactation care and services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 11A of chapter 13 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out the first paragraph and inserting in place
3 thereof the following paragraph:-

4 There shall be a board of allied health professions, hereinafter called the board, which
5 shall consist of 12 members to be appointed by the governor. Members of the board shall be
6 residents of the commonwealth and citizens of the United States. Three of such members shall be
7 athletic trainers licensed in accordance with section 23B of chapter 112; 2 of such members shall
8 be occupational therapists licensed in accordance with said section 23B; 1 such member shall be
9 an occupational therapy assistant licensed in accordance with said section 23B; 2 of such
10 members shall be physical therapists licensed in accordance with said section 23B; 1 such
11 member shall be a physical therapist assistant licensed in accordance with said section 23B; 1
12 such member shall be a lactation care provider licensed in accordance with said section 23B; 1

13 such member shall be a physician licensed in accordance with section 2 of chapter 112; and 1
14 such member shall be selected from and shall represent the general public.

15 SECTION 2. Section 23A of chapter 112 of the General Laws, as appearing in the 2016
16 Official Edition, is hereby amended by inserting after the definition of “Board” the following
17 definitions:-

18 “Breastfeeding equipment” means manual, electric, single user and multi-user breast
19 pumps, breast pump flanges, nipple shields, and other lactation accessories recommended by a
20 licensed lactation care provider or other health professional, whether a rental or a purchase.

21 “Lactation care and services”, the clinical application of scientific principles and a
22 multidisciplinary body of evidence for the evaluation, problem identification, treatment,
23 education and consultation to provide lactation care and services to families; provided, however,
24 that lactation care and services includes, but is not limited to, lactation assessment through the
25 systematic collection of subjective and objective data, analysis of data and creation of a plan of
26 care; development and implementation of a lactation care plan with demonstration and
27 instruction to parents and communication to the primary health care provider, provision of
28 lactation education to parents and health care providers, and recommendation and use of assistive
29 devices.

30 “Lactation care provider”, a person who provides lactation care and services.

31 “Licensed lactation care provider”, a person who is duly licensed to practice lactation
32 care and services in accordance with section 23B.

33 “Nationally recognized accrediting agency” shall mean the National Commission for
34 Certifying Agencies (“NCCA”), the Institute for Credentialing Excellence (“ICE”), and
35 American National Standards Institute (“ANSI”).

36 SECTION 3. Section 23B of said chapter 112, as appearing in the 2016 Official Edition,
37 is hereby amended by inserting after the first paragraph the following words:-

38 The Board may issue licenses for lactation care providers, without examination, to
39 individuals who have furnished satisfactory proof that they are of good moral character and that
40 they have met the requirements of section twenty-three J½ upon completion of an application on
41 a form furnished by the board and payment of a fee determined by the secretary of administration
42 and finance.

43 SECTION 4. Section 23D of said chapter 112, as appearing in the 2016 Official Edition
44 is hereby amended by inserting, in line 3, after the words “physical therapist assistant”, the
45 following words:-, or lactation care provider.

46 SECTION 5. Said chapter 112 is hereby further amended by inserting after section 23J
47 the following section:

48 Section 23J1/2 Lactation Care Provider

49 Section 23J½. An applicant for licensure as a lactation care provider shall possess current
50 certification from a certification program accredited by a Nationally Recognized Accrediting
51 Agency.

52 SECTION 6. Section 23K of said chapter 112, as appearing in the 2016 Official Edition
53 is hereby amended by inserting in subsection (c), after the words “physical therapy”, the
54 following words:- or lactation care and services.

55 SECTION 7. Section 23L of said chapter 112, as appearing in the 2016 Official Edition is
56 hereby amended by inserting in subsection (c), after the words “physical therapist assistant”, the
57 following words:- or lactation care provider.

58 SECTION 8. Said chapter 112 is hereby further amended by inserting after section 23P
59 the following section:

60 Section 23P³/₄. Lactation care providers, necessity for licensure

61 Section 23P³/₄. (a) No person shall hold themselves out to others as a licensed lactation
62 care provider unless they hold a valid license issued in accordance with this chapter.

63 (b) Nothing shall be construed to affect or prevent the practice of lactation care and
64 services by licensed care providers or other persons; provided that a person who is not a licensee
65 shall not hold that person out or represent that person's self to be a licensed lactation care
66 provider.

67 SECTION 9. Chapter 175 of the General Laws, as appearing in the 2016 Official
68 Addition, is amended by inserting as Section 47cc the following:

69 (A) Any blanket or general policy of insurance described in subdivision (A), (C), or
70 (D) of section 110 which is issued or subsequently renewed by agreement between the insurer
71 and the policyholder, within or without the commonwealth, during the period this provision is
72 effective, or any policy of accident and sickness insurance as described in section 108 which

73 provides hospital expense and surgical expense insurance and which is delivered or issued for
74 delivery or subsequently renewed by agreement between the insurer and the policyholder in the
75 commonwealth during the period that this provision is effective shall provide, to the same extent
76 that benefits are provided for other pregnancy-related procedures coverage for lactation support
77 consisting of, at minimum, lactation care and services by licensed lactation care providers
78 provided that such services are within the lawful scope of practice for such providers, the costs
79 of breastfeeding equipment, and the performance of any necessary maternal and newborn clinical
80 assessments.

81 (B) An insurer providing coverage under this paragraph and any participating entity
82 through which the insurer offers health services shall not:

83 (1) deny to a covered person eligibility, or continued eligibility, to enroll or to renew
84 coverage under the terms of the policy or vary the terms of the policy for the purpose or with the
85 effect of avoiding compliance with this paragraph;

86 (2) provide incentives (monetary or otherwise) to encourage a covered person to
87 accept less than the minimum protections available under this paragraph;

88 (3) penalize in any way or reduce or limit the compensation of a health care
89 practitioner for recommending or providing care to a covered person in accordance with this
90 paragraph;

91 (4) provide incentives (monetary or otherwise) to a health care practitioner relating to
92 the services provided pursuant to this paragraph intended to induce or have the effect of inducing
93 such practitioner to provide care to a covered person in a manner inconsistent with this
94 paragraph;

95 (5) restrict coverage for any portion of a period within a hospital length of stay
96 required under this paragraph in a manner which is inconsistent with the coverage provided for
97 any preceding portion of such stay;

98 (6) require prior authorization, prescription or referral for lactation care and services;
99 or

100 (7) impose a deductible, coinsurance, co-payment or any other cost-sharing
101 requirement for lactation care and services or breastfeeding equipment provided under this
102 paragraph.

103 SECTION 10. Chapter 118E of the General Laws, as appearing in the 2016 Official
104 Addition, is amended by adding after section 10N, the following section:

105 Section 10O: Medicaid Coverage for Lactation Care and Services.

106 (a) For purposes of this section, the following words shall have the following meanings:

107 “Breastfeeding equipment” means manual, electric, single user and multi-user breast
108 pumps, breast pump flanges, nipple shields, and other lactation accessories recommended by a
109 licensed lactation care provider or other health professional, whether a rental or a purchase.

110 “Division”, the division of medical assistance within the executive office of health and
111 human services.

112 “Lactation care and services”, the clinical application of scientific principles and a
113 multidisciplinary body of evidence for the evaluation, problem identification, treatment,
114 education and consultation to provide lactation care and services to families; provided, however,
115 that lactation care and services includes, but is not limited to, lactation assessment through the

116 systematic collection of subjective and objective data, analysis of data and creation of a plan of
117 care; development and implementation of a lactation care plan with demonstration and
118 instruction to parents and communication to the primary health care provider, provision of
119 lactation education to parents and health care providers, and recommendation and use of assistive
120 devices.

121 “Licensed lactation care provider”, a person who is duly licensed to practice lactation
122 care and services in accordance with section 23B of Chapter 112.

123 (b) The division and its contracted health insurers, health plans, health maintenance
124 organizations, behavioral health management firms and third-party administrators under contract
125 to a Medicaid managed care organization or primary care clinician plan shall provide, to the
126 extent that benefits are provided for other pregnancy-related procedures, coverage for lactation
127 support consisting of, at minimum, lactation care and services by licensed lactation care
128 providers provided that such services are within the lawful scope of practice for such providers,
129 the cost of breastfeeding equipment, and the performance of any maternal and newborn clinical
130 assessments, without any prior authorization, prescription or referral.

131 SECTION 11. This act shall take effect ninety days after the date on which it shall have
132 become a law.