SENATE DOCKET, NO. 1827 FILED ON: 1/16/2015

SENATE . . . . . No. 1183

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 regulating the practice and licensure of lactation consultants.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joan B. Lovely	*Second Essex*

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SENATE . . . . . No. 1183

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1183) of Joan B. Lovely for legislation to regulate the practice and licensure of lactation consultants. Public Health.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act regulating the practice and licensure of lactation consultants.

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

SECTION 1. Section 11A of chapter 13 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Section 11A. There shall be a board of allied health professions which shall consist of 12 members to be appointed by the governor. Members of the board shall be residents of the commonwealth and citizens of the United States. Three members shall be athletic trainers licensed pursuant to section 23B of chapter 112; 2 members shall be occupational therapists licensed pursuant to said section 23B of said chapter 112; 1 member shall be an occupational therapy assistant licensed pursuant to said section 23B of said chapter 112; 2 members shall be physical therapists licensed pursuant to said section 23B of said chapter 112; 1 member shall be a physical therapist assistant licensed pursuant to said section 23B of said chapter 112; 1 member shall be a physician licensed pursuant to section 2 of said chapter 112; 1 member shall be a lactation consultant who has successfully completed certification programming accredited by the

National Commission for Certifying Agencies; and 1 member shall be selected from and shall represent the general public; provided, however, that such members constituting the first board shall be persons who are eligible for licensing as practitioners of the allied health profession.

SECTION 2. Said section 11A of chapter 13 is hereby further amended by striking the words “a lactation consultant who has successfully completed certification programming accredited by the National Commission for Certifying Agencies” and inserting in place thereof the following:- “a licensed lactation consultant”

SECTION 3. Section 23A of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Board” and inserting in place thereof the following 5 definitions:-

“Board”, the board of allied health professions established pursuant to section 11A of chapter 13.

“National Commission for Certifying Agencies” or “NCCA”, the accrediting body of the Institute for Credentialing Excellence (ICE).

“Lactation care and services”, 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 families; provided, however, that lactation care and services provided by a licensed international board certified lactation consultant includes, but is not limited to: (i) lactation assessment through the systematic collection of subjective and objective data; (ii) analysis of data and creation of a plan of care; (iii) development and implementation of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider; (iv) evaluation of outcomes;

(v) provision of lactation education to parents and health care providers; and (vi) recommendation and use of assistive devices.

"Lactation consultant", a person who is duly licensed to practice lactation care and services pursuant to this section.

SECTION 4. Said section 23A of said chapter 112, as so appearing, is hereby further amended by inserting after the definition of "Physical therapist assistant" the following definition:-

"Practice", rendering or offering to render lactation care and services to an individual, a family or a group of individuals.

SECTION 5. Section 23B of said chapter 112, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "and physical therapist assistants" and inserting in place thereof the following words:- , physical therapist assistants and lactation consultants.

SECTION 6. Said chapter 112 is hereby further amended by striking out section 23E, as so appearing, and inserting in place thereof the following section:-

Section 23E. Nothing in this section shall be construed as preventing or restricting the practice, services or activities of:

(i) a person licensed in the commonwealth by any other statute from engaging in the profession or occupation for which the person is licensed;

(ii) a person employed as an athletic trainer, occupational therapist, occupational therapy assistant, physical therapist, physical therapist assistant or lactation consultant by the government of the United States or any agency thereof provided that the person provides occupational

therapy or physical therapy solely under the direction or control of the organization by which the person is employed;

(iii) a person pursuing a supervised course of study leading to a degree or certificate in athletic training, occupational therapy, physical therapy or lactation care and services at an accredited or approved educational program provided that the person is designated by a title which clearly indicates the person's status as a student or trainee;

(iv) a person fulfilling the supervised field work experience requirements of this section provided that the experience constitutes a part of the experience necessary to meet the requirement of this section; or

(v) a person performing athletic training services, occupational therapy services, physical therapy services or lactation care and services in the commonwealth provided that the services are performed for not more than 2 days in a calendar year in association with an athletic trainer, occupational therapist, physical therapist or lactation consultant licensed pursuant to this section and that the person is licensed under the laws of another state which has licensure requirements at least as stringent as the requirements of this section.

SECTION 7. Said chapter 112 is hereby further amended by inserting after section 23J the following section:-

Section 23J½. (a) An applicant for licensure as a lactation consultant shall have either: (i) successfully completed certification programming accredited by a nationally recognized accrediting agency approved by the board or successfully completed sufficiently equivalent prerequisites for lactation specific education approved by the board; and (ii) passed an examination administered by the board. The examination shall be written and may, at the

discretion of the board, in addition, be oral and demonstrative and shall test the applicant's knowledge of the basic and clinical sciences as they relate to lactation consulting, including the applicant's professional skills and judgment in the utilization of lactation consulting techniques and methods and other subjects as the board may consider useful to determine the applicant's fitness to act as a lactation consultant. The examination shall be conducted by the board at least twice per year and at times and places to be determined by the board; provided, however, that the board may utilize any existing national examination that meets the requirement of this section.

(b) No person shall be held out as a lactation consultant unless licensed as a lactation consultant pursuant to section 23B.

(c) The board may license as a lactation consultant any applicant of another state or territory of the United States, the District of Columbia or the commonwealth of Puerto Rico if: (i) successfully completed certification programming accredited by a nationally recognized accrediting agency approved by the board; or (ii) the requirements for licensure in another state or territory are determined by the board to be substantially equal to the requirements contained in this chapter.

(d) At the time of making an application for licensure, the applicant shall pay a fee to the board as determined by the secretary of administration and finance.

SECTION 8. All persons engaged in the practice of lactation care and services as of the effective date of this act may continue to practice without a license until 18 months following the promulgation of regulations by the board, denial of an application by the board or the withdrawal of an application, whichever occurs first.

SECTION 9. Section 2 of this Act shall take effect 18 months from the effective date of this act.