

SENATE No. 691

The Commonwealth of Massachusetts

PRESENTED BY:

Susan L. Moran

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:	
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/6/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/15/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>6/16/2023</i>

SENATE No. 691

By Ms. Moran, a petition (accompanied by bill, Senate, No. 691) of Susan L. Moran, Joanne M. Comerford and Michael O. Moore 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 2020
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 so appearing, is hereby
16 amended by inserting after the definition of “Board” the following definitions:-

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

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

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

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

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

35 SECTION 3. Section 23B of said chapter 112, as so appearing, is hereby amended by
36 inserting after the first paragraph the following paragraph:-

37 The Board may issue licenses for lactation care providers, without examination, to
38 individuals who have furnished satisfactory proof that they are of good moral character and that
39 they have met the requirements of section 23J½ upon completion of an application on a form
40 furnished by the board and payment of a fee determined by the secretary of administration and
41 finance.

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

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

47 Section 23J1/2. Lactation Care Provider

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

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

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

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

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

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

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

66 SECTION 9. Chapter 175 of the General Laws, as so appearing, is hereby amended by
67 inserting as Section 47CC the following:-

68 Section 47CC. (a) Any blanket or general policy of insurance described in subdivision
69 (A), (C), or (D) of section 110 which is issued or subsequently renewed by agreement between
70 the insurer and the policyholder, within or without the commonwealth, during the period this
71 provision is effective, or any policy of accident and sickness insurance as described in section

72 108 which provides hospital expense and surgical expense insurance and which is delivered or
73 issued for delivery or subsequently renewed by agreement between the insurer and the
74 policyholder in the commonwealth during the period that this provision is effective shall provide,
75 to the same extent that benefits are provided for other pregnancy-related procedures coverage for
76 lactation support consisting of, at minimum, lactation care and services by licensed lactation care
77 providers provided that such services are within the lawful scope of practice for such providers,
78 the costs of breastfeeding equipment, and the performance of any necessary maternal and
79 newborn clinical assessments.

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

82 (1) deny to a covered person eligibility, or continued eligibility, to enroll or to renew
83 coverage under the terms of the policy or vary the terms of the policy for the purpose or with the
84 effect of avoiding compliance with this paragraph; (2) provide incentives (monetary or
85 otherwise) to encourage a covered person to accept less than the minimum protections available
86 under this paragraph; (3) penalize in any way or reduce or limit the compensation of a health
87 care practitioner for recommending or providing care to a covered person in accordance with this
88 paragraph; (4) provide incentives (monetary or otherwise) to a health care practitioner relating to
89 the services provided pursuant to this paragraph intended to induce or have the effect of inducing
90 such practitioner to provide care to a covered person in a manner inconsistent with this
91 paragraph; (5) restrict coverage for any portion of a period within a hospital length of stay
92 required under this paragraph in a manner which is inconsistent with the coverage provided for
93 any preceding portion of such stay; (6) require prior authorization, prescription or referral for
94 lactation care and services; or (7) impose a deductible, coinsurance, co-payment or any other

95 cost-sharing requirement for lactation care and services or breastfeeding equipment provided
96 under this paragraph.

97 SECTION 10. Chapter 118E of the General Laws, as so appearing, is hereby amended by
98 adding after section 10N, the following section:

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

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

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

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

106 “Lactation care and services”, the clinical application of scientific principles and a
107 multidisciplinary body of evidence for the evaluation, problem identification, treatment,
108 education and consultation to provide lactation care and services to families; provided, however,
109 that lactation care and services includes, but is not limited to, lactation assessment through the
110 systematic collection of subjective and objective data, analysis of data and creation of a plan of
111 care; development and implementation of a lactation care plan with demonstration and
112 instruction to parents and communication to the primary health care provider, provision of
113 lactation education to parents and health care providers, and recommendation and use of assistive
114 devices.

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

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

125 SECTION 11. This act shall take effect 90 days after the date on which it shall have
126 become a law.