

1.1 Senator ..... moves to amend S.F. No. 1151 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **[147G.01] DEFINITIONS.**

1.4 Subdivision 1. **Application.** For purposes of this chapter, the following terms have the  
1.5 meanings given.

1.6 Subd. 2. **Board.** "Board" means the Board of Medical Practice.

1.7 Subd. 3. **Breastfeeding education, counseling, and support services.** "Breastfeeding  
1.8 education, counseling, and support services" refers to services such as educating women,  
1.9 families, health professionals, and the community about the impact of breastfeeding and  
1.10 human lactation on health and what to expect in the normal course of breastfeeding;  
1.11 facilitating the development of policies that protect, promote, and support breastfeeding;  
1.12 acting as an advocate for breastfeeding as the child-feeding norm; providing holistic  
1.13 breastfeeding support, encouragement, and care from preconception to weaning in order to  
1.14 help women and their families meet their breastfeeding goals; using principles of adult  
1.15 education when teaching parents, health care providers, and others in the community; and  
1.16 identifying and referring high-risk mothers and babies and those requiring clinical treatment  
1.17 to licensed providers.

1.18 Subd. 4. **Certified lactation counselor.** "Certified lactation counselor" means an  
1.19 individual who provides lactation education, counseling, and support services and who  
1.20 possesses certification from the Academy of Lactation Policy and Practice of the Healthy  
1.21 Children Project, Inc., as accredited by the American National Standards Institute.

1.22 Subd. 5. **Clinical lactation services.** "Clinical lactation services" refers to the clinical  
1.23 application of evidence-based practices for evaluation, problem identification, treatment,  
1.24 education, and consultation in providing lactation care and services to childbearing families.  
1.25 Clinical lactation services involves one or more of the following activities: lactation  
1.26 assessment through the systematic collection of data; analysis of data; creation of lactation  
1.27 care plans; and the implementation of lactation care plans, including but not limited to  
1.28 providing demonstration and instruction to clients; communicating with a client's primary  
1.29 health care provider; evaluating outcomes; and recommending the use of assistive devices  
1.30 when appropriate.

1.31 Subd. 6. **Credential.** "Credential" means a license, permit, certification, registration, or  
1.32 other evidence of qualification or authorization to engage in the practice of clinical lactation  
1.33 care services issued by any authority.

2.1 Subd. 7. **International board certified lactation consultant.** "International board  
2.2 certified lactation consultant" means an individual who provides clinical lactation services  
2.3 and possesses certification from the International Board of Lactation Consultant Examiners  
2.4 as accredited by the National Commission for Certifying Agencies.

2.5 Sec. 2. **[147G.02] LICENSURE; PROTECTED TITLES AND RESTRICTIONS ON**  
2.6 **USE; EXEMPT PERSONS.**

2.7 Subdivision 1. **Unlicensed practice prohibited.** (a) Effective July 1, 2019, no individual  
2.8 shall engage in the practice of clinical lactation services unless the individual is a licensed  
2.9 international board certified lactation consultant under this chapter.

2.10 (b) Nothing in this chapter shall prohibit any individual, including, but not limited to, a  
2.11 certified lactation counselor from providing breastfeeding education, counseling, and support  
2.12 services, or require an individual to be licensed under this chapter in order to provide  
2.13 breastfeeding education, counseling, and support services.

2.14 Subd. 2. **Protected titles and restrictions on use.** The terms or phrases "licensed  
2.15 international board certified lactation consultant" or "licensed lactation consultant" alone  
2.16 or in combination shall only be used by an individual who meets the requirements under  
2.17 this chapter and is a licensed international board certified lactation consultant.

2.18 Subd. 3. **Exempt persons.** (a) This section does not apply to:

2.19 (1) an individual employed as a lactation consultant by the government of the United  
2.20 States or any agency of it;

2.21 (2) a student participating in supervised fieldwork or supervised coursework that is  
2.22 necessary to meet the certification requirements under this chapter;

2.23 (3) an individual visiting and then leaving the state and performing clinical lactation  
2.24 services while in the state if the services are performed no more than 30 days in a calendar  
2.25 year as part of a professional activity that is limited in scope and duration and is in association  
2.26 with an international board certified lactation consultant licensed under this chapter, and  
2.27 the individual:

2.28 (i) is credentialed under the law of another state which has credentialing requirements  
2.29 at least as stringent as the requirements of this chapter; or

2.30 (ii) meets the requirements for certification as an international board certified lactation  
2.31 consultant established by the International Board of Lactation Consultant Examiners as  
2.32 accredited by the National Commission for Certifying Agencies;

3.1 (4) an individual licensed to practice as a dentist under chapter 150A, physician or  
3.2 osteopath under chapter 147, nurse under sections 148.171 to 148.285, physician assistant  
3.3 under chapter 147A, dietitian under sections 148.621 to 148.634, or midwife under chapter  
3.4 147D, when providing clinical lactation services incidental to the practice of the individual's  
3.5 profession;

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

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

3.11 (i) does not use the protected titles under subdivision 2 or represents to the public that  
3.12 the volunteer is licensed or has the clinical skills and abilities associated with licensure;

3.13 (ii) is performing services for free, with no fee or payment charged to the individual or  
3.14 group served; and

3.15 (iii) receives no compensation, monetary or otherwise, from the individual or group  
3.16 being served except for administrative expenses including, but not limited to, mileage.

3.17 (b) No individual identified under paragraph (a) shall use one of the protected titles  
3.18 under subdivision 2 while providing clinical lactation services unless licensed under this  
3.19 chapter.

3.20 Subd. 4. **Exemption.** Nothing in this chapter shall prohibit the practice of any profession  
3.21 or occupation, licensed or registered by the state, by any individual duly licensed or registered  
3.22 to practice the profession or occupation or to perform any act that falls within the scope of  
3.23 practice of the licensed or registered profession or occupation.

3.24 **Sec. 3. [147G.03] APPLICATION REQUIREMENTS; PROCEDURE.**

3.25 Subdivision 1. **Requirements for licensure.** (a) An applicant for licensure as a licensed  
3.26 international board certified lactation consultant must:

3.27 (1) have a current certification from the International Board of Lactation Consultant  
3.28 Examiners as accredited by the National Commission for Certifying Agencies; and

3.29 (2) submit an application in accordance with subdivision 2.

3.30 (b) An applicant is responsible for providing verified documentation with the applicant's  
3.31 application submitted to the board that the applicant is currently credentialed as required  
3.32 under this subdivision. The applicant must also sign a waiver authorizing the board access

4.1 to the applicant's records maintained by the International Board of Lactation Consultant  
4.2 Examiners.

4.3 Subd. 2. **Application.** An applicant for licensure must:

4.4 (1) submit a completed application on forms provided by the board and supply the  
4.5 information requested on the application, including:

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

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

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

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

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

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

4.17 (vii) information on any physical or mental condition or chemical dependency that  
4.18 impairs the applicant's ability to provide lactation education, counseling, and support services  
4.19 or clinical lactation services with reasonable judgment or safety;

4.20 (viii) a description of any misdemeanor, gross misdemeanor, or felony conviction that  
4.21 is reasonably related to providing lactation education, counseling, and support services or  
4.22 clinical lactation services; and

4.23 (ix) a description of any state or federal court order, including a conciliation court order  
4.24 or a disciplinary order, related to the individual providing lactation education, counseling,  
4.25 and support services or clinical lactation services;

4.26 (2) submit with the application all fees required by section 147G.07;

4.27 (3) sign a statement that the information in the application is true and correct to the best  
4.28 of the applicant's knowledge and belief;

4.29 (4) sign a waiver authorizing the board access to the applicant's records in this or any  
4.30 other state in which the applicant holds or previously held a credential for the practice of

5.1 an occupation, completed a clinical lactation services education program, or engaged in  
5.2 lactation education, counseling, and support services or clinical lactation services; and

5.3 (5) within 30 days of a request, submit additional information as requested by the board  
5.4 to clarify information in the application.

5.5 Subd. 3. **Licensure by reciprocity.** (a) An applicant who holds a current credential as  
5.6 a lactation consultant, lactation care provider, or lactation counselor or substantially  
5.7 equivalent title in the District of Columbia or a state or territory of the United States whose  
5.8 standards for credentialing are determined by the board to be equivalent to or exceed the  
5.9 requirements for licensure under this section, may be eligible for licensure by reciprocity  
5.10 as a licensed international board certified lactation consultant under this subdivision.

5.11 (b) Applicants under this subdivision must provide the information required in subdivision  
5.12 2 and must request that the appropriate government body in each jurisdiction in which the  
5.13 applicant holds or held credentials as a lactation care provider or substantially similar title  
5.14 send a letter to the board verifying the applicant's credentials. A license shall not be issued  
5.15 by the board until the board receives a letter verifying each of the applicant's credentials.  
5.16 Each letter must include the applicant's name and date of birth; credential number date of  
5.17 issuance and date of expiration; a statement regarding investigations pending and disciplinary  
5.18 actions taken or pending against the applicant; current status of the credential; and the terms  
5.19 under which the credential was issued.

5.20 Subd. 4. **Action on applications for licensure.** (a) The board shall act on an application  
5.21 for licensure according to paragraphs (b) to (d).

5.22 (b) The board shall determine if the applicant meets the requirements for licensure under  
5.23 this section. The board may investigate information provided by an applicant to determine  
5.24 whether the information is accurate and complete.

5.25 (c) The board shall approve, approve with conditions, or deny licensure. The board shall  
5.26 notify an applicant of action taken on the application and, if licensure is denied or approved  
5.27 with conditions, the grounds for the board's determination.

5.28 (d) An applicant denied licensure or granted licensure with conditions may make a  
5.29 written request to the board, within 30 days of the date of the board's determination, for  
5.30 reconsideration of the board's's determination. Individuals requesting reconsideration may  
5.31 submit information which the applicant wants considered in the reconsideration. After  
5.32 reconsideration of the board's determination to deny licensure or grant licensure with  
5.33 conditions, the board shall determine whether the original determination should be affirmed  
5.34 or modified. An applicant is allowed no more than one request in any one biennial licensure

6.1 period for reconsideration of the board's determination to deny licensure or approve licensure  
6.2 with conditions.

6.3 **Sec. 4. [147G.04] LICENSURE RENEWAL.**

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

6.6 (1) submit a completed and signed application for licensure renewal on forms provided  
6.7 by the board;

6.8 (2) submit the renewal fee required under section 147G.07;

6.9 (3) submit proof that the licensee is currently credentialed by the International Board of  
6.10 Lactation Consultant Examiners as accredited by the National Commission for Certifying  
6.11 Agencies, or another jurisdiction as described in section 147G.03; and

6.12 (4) submit additional information as requested by the board to clarify information  
6.13 presented in the renewal application. The information must be submitted within 30 days  
6.14 from the date of the board's request.

6.15 **Subd. 2. Renewal deadline.** (a) Licenses must be renewed every two years. Licensees  
6.16 must comply with the procedures in paragraphs (b) to (d).

6.17 (b) An application for licensure renewal must be received by the board or postmarked  
6.18 at least 30 calendar days before the expiration date.

6.19 (c) An application for licensure renewal not received within the time required under  
6.20 paragraph (b), but received on or before the expiration date, must be accompanied by a late  
6.21 fee in addition to the renewal fee specified in section 147G.07.

6.22 (d) Licensure renewals received after the expiration date shall not be accepted and  
6.23 individuals seeking licensed status must comply with the requirements of section 147G.03.

6.24 **Subd. 3. Licensure renewal notice.** Each license must state an expiration date. At least  
6.25 60 calendar days before the license expiration date, the board shall notify the licensee at  
6.26 the licensee's last known address on file with the board. The notice must include an  
6.27 application for licensure renewal and notice of fees required for renewal. The licensee's  
6.28 failure to receive notice does not relieve the licensee of the obligation to meet the renewal  
6.29 deadline and other requirements for licensure renewal.

6.30 **Subd. 4. Licensure renewal after expiration date.** An individual whose application  
6.31 for licensure renewal is received after the licensure expiration date must submit the following:

7.1 (1) a completed and signed application for licensure following lapse in licensed status  
7.2 on forms provided by the board;

7.3 (2) the renewal fee and the late fee required under section 147G.07;

7.4 (3) proof that the licensee is currently credentialed by the International Board of Lactation  
7.5 Consultant Examiners or another jurisdiction as described in section 147G.03; and

7.6 (4) additional information as requested by the board to clarify information in the  
7.7 application, including information to determine whether the individual has engaged in  
7.8 conduct warranting disciplinary action as set forth in section 147G.08. This information  
7.9 must be submitted within 30 days of the board's's request.

7.10 **Sec. 5. [147G.05] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

7.11 A licensee who changes a name, address, or employment must inform the board, in  
7.12 writing, of the change of name, address, employment, business address, or business telephone  
7.13 number within 30 days. A change in name must be accompanied by a copy of a marriage  
7.14 certificate or court order. All notices or other correspondence mailed to or served on a  
7.15 licensee by the board at the licensee's address on file with the board shall be considered as  
7.16 having been received by the licensee.

7.17 **Sec. 6. [147G.06] CLIENT NOTIFICATION.**

7.18 Subdivision 1. **Required notification.** (a) In the absence of a physician referral or prior  
7.19 authorization approval, and before providing clinical lactation services to a client, a licensed  
7.20 international board certified lactation consultant must provide to the client or the client's  
7.21 parent or guardian if the client is a minor, the following written notification in all capital  
7.22 letters of 12-point or larger boldface type: "Your health care provider, insurer, or health  
7.23 plan may require a physician referral or prior authorization before providing payment for  
7.24 any clinical lactation services rendered and you may be obligated for partial or full payment  
7.25 for any clinical lactation services rendered."

7.26 (b) Information other than this notification may be included as long as the notification  
7.27 remains conspicuous on the face of the document.

7.28 (c) A nonwritten disclosure format may be used to satisfy the recipient notification  
7.29 requirement when necessary to accommodate the physical condition of a client or client's  
7.30 guardian.

8.1 Subd. 2. Evidence of recipient notification. Upon request, the licensed international  
8.2 board certified lactation consultant is responsible for providing evidence of compliance  
8.3 with the client notification requirement of this section.

8.4 Sec. 7. [147G.07] FEES.

8.5 Subdivision 1. Initial licensure fee. The initial licensure fee is \$80. The board shall  
8.6 prorate fees based on the number of quarters remaining in the biennial licensure period.

8.7 Subd. 2. Licensure renewal fee. The biennial licensure renewal fee is \$80.

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

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

8.10 Subd. 5. Verification to other states. The fee for verification of licensure to other states  
8.11 is \$25.

8.12 Subd. 6. Use of fees. All fees are nonrefundable. Fees collected under this section shall  
8.13 be deposited in the state treasury and credited to the state government special revenue fund.

8.14 Subd. 7. Penalty fee. (a) The penalty for using one of the protected titles under section  
8.15 147G.02 without a current license after the credential has expired and before it is renewed  
8.16 is the amount of the license renewal fee for any part of the first month, plus the license  
8.17 renewal fee for any part of any subsequent month up to 36 months.

8.18 (b) The penalty for applicants who use one of the protected titles under section 147G.02  
8.19 before being issued a license is the amount of the license application fee for any part of the  
8.20 first month, plus the license application fee for any part of any subsequent month up to 36  
8.21 months.

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

8.24 Sec. 8. [147G.08] GROUNDS FOR DISCIPLINE OR DENIAL OF LICENSURE;  
8.25 INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.

8.26 Subdivision 1. Grounds for discipline or denial of licensure. The board may deny an  
8.27 application for licensure, may approve licensure with conditions, or may discipline a licensee  
8.28 using any disciplinary action listed in subdivision 3 on proof that the individual has:

8.29 (1) intentionally submitted false or misleading information to the board;

9.1 (2) failed, within 30 days, to provide information in response to a written request by the  
9.2 board;

9.3 (3) performed services of a licensed international board certified lactation consultant in  
9.4 an incompetent manner, in a manner that is outside of the provider's scope of practice, or  
9.5 in a manner that falls below the community standard of care;

9.6 (4) violated a provision of this chapter;

9.7 (5) aided or abetted another person in violating a provision of this chapter;

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

9.10 (7) been convicted of violating any state or federal law, rule, or regulation which directly  
9.11 relates to providing clinical lactation services;

9.12 (8) been disciplined for conduct in the practice of an occupation by the state of Minnesota,  
9.13 another jurisdiction, or a national professional association, if any of the grounds for discipline  
9.14 are the same or substantially equivalent to those in this chapter;

9.15 (9) not cooperated with the board in an investigation conducted according to subdivision  
9.16 2;

9.17 (10) advertised in a manner that is false or misleading;

9.18 (11) engaged in dishonest, unethical, or unprofessional conduct in connection with  
9.19 providing clinical lactation services that is likely to deceive, defraud, or harm the public;

9.20 (12) demonstrated a willful or careless disregard for the health, welfare, or safety of a  
9.21 client;

9.22 (13) performed medical diagnosis or provided treatment without being licensed to do  
9.23 so under the laws of this state;

9.24 (14) paid or promised to pay a commission or part of a fee to any person who contacts  
9.25 the licensed international board certified lactation consultant for consultation or sends  
9.26 patients to the licensee for treatment;

9.27 (15) engaged in abusive or fraudulent billing practices, including violations of federal  
9.28 Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical  
9.29 assistance laws;

9.30 (16) obtained money, property, or services from a consumer through the use of undue  
9.31 influence, high-pressure sales tactics, harassment, duress, deception, or fraud;

10.1 (17) performed services for a client who had no possibility of benefiting from the services;

10.2 (18) failed to refer a client for medical evaluation when appropriate or when a client  
10.3 indicated symptoms associated with diseases that could be medically or surgically treated;

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

10.7 (20) violated a federal or state court order, including a conciliation court judgment, or  
10.8 a disciplinary order issued by the board, related to the individual's clinical lactation services  
10.9 practice; or

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

10.11 Subd. 2. **Discipline; reporting.** For purposes of this chapter, licensed international board  
10.12 certified lactation consultants and applicants are subject to the provisions of sections 147.091  
10.13 to 147.162.

10.14 **Sec. 9. EFFECTIVE DATE.**

10.15 Sections 1 to 8 are effective July 1, 2018."

10.16 Delete the title and insert:

10.17 "A bill for an act  
10.18 relating to health; creating licensing for the practice of clinical lactation services;  
10.19 establishing fees; requiring a report; proposing coding for new law as Minnesota  
10.20 Statutes, chapter 147G."