



# Knowledge Brief

## *IBCLC® Licensure in Georgia - What Happened*

With the passage of the Georgia Lactation Consultant Practice Act in 2016,<sup>1</sup> the International Board Certified Lactation Consultant (IBCLC®) became a licensed profession in Georgia. Licensure of practitioners delivering clinical healthcare services is the standard within the U.S. healthcare system for protecting the public's health, safety and welfare. This new law also resulted in equitable access to clinical lactation care for families covered by Medicaid and in the creation of an affordable college education and training program to become an IBCLC®. Opposition to the IBCLC® licensure law was demonstrated by a lawsuit aided by the Institute for Justice. A general summary\* of the legal challenge and outcome is as follows:

### **Mary Jackson and Reaching Our Sisters Everywhere (ROSE) v. Brad Raffensperger (the Georgia Secretary of State)<sup>2</sup>**

- The Georgia Court struck the law that licensed Lactation Consultants on a **procedural** issue.
- Within the Georgia Lactation Consultant Practice Act, the Georgia General Assembly (the legislative branch of government), placed the authority with the Georgia Secretary of State (a member of the Executive branch) to implement the law (i.e., issue licenses to qualified candidates, restrict such licenses and revoke such licenses when warranted).
- When Mary Jackson and ROSE challenged the law, they sued the implementer—the Georgia Secretary of State (SOS).
- The Court determined that because the SOS had not produced any evidence of harm creating the need for licensure, during the course of the litigation, the law could not stand.
- Unlike some other states, the Georgia General Assembly does not keep official public “legislative history” for legislation that it considers.
- The SOS, being a separate branch of government, did not have the information considered by the Georgia General Assembly, in his official business records.
- Evidence of harm was, in fact, produced to the Georgia General Assembly during the legislative process creating this law.
- The Court could have, but did not, remand the case back to the trial court with direction to the SOS to seek any evidence that was produced to the Georgia General Assembly.
- The Court decided the case based on Georgia law and the Georgia Constitution. The decision is not binding precedent for any other state.

*\*This summary is for general informational purposes only. It is not legal advice and not a substitute for competent legal advice from a licensed professional attorney in your state.*

Licensure of the IBCLC® has been a national goal since the 2011 Surgeon Generals' Call to Action to Support Breastfeeding.<sup>3</sup> Readers are also referred to **Goliath Just Slayed David** in the journal *Clinical Lactation* for a thorough, fact-based discussion on the repercussions of the Court's decision.<sup>4</sup>

## Data Relevant to the Georgia Lactation Consultant Practice Act

Higher density IBCLC® availability has been associated with increased breastfeeding among low-income families, and IBCLC® services have been shown to be cost-effective.<sup>5</sup> This licensing law propelled the growth of International Board Certified Lactation Consultants (IBCLCs®) in Georgia. In the seven years before its passage, 2009-2016, the number of IBCLCs® in Georgia increased from 275 to 366—a gain of 91 people with the credential. In the seven years subsequent to its passage, 2016-2023, the number of IBCLCs® in Georgia increased from 366 to 515—a gain of 149 people with the credential.<sup>6</sup>

This is a 64% increase in the number of people becoming an IBCLC® in the seven years after licensure (149) compared to the number who became an IBCLC® in the seven years prior to licensure (91), and it is a 41% increase in the total number of Georgia IBCLCs® subsequent to the 2016 passage of the licensing law. Comparatively, the United States went from a total of 15,734 IBCLCs® in 2016 to 19,248 in 2023,<sup>7</sup> a 22% increase in the total number of IBCLCs® in the U.S. during the same period of time.

After more than a year of planning and going through several required approvals and accreditations, the Georgia Northwestern Technical College (GNTC) opened its Human Lactation Program in 2018, offering all the prerequisite coursework and clinical training hours needed for a candidate to be eligible to sit for the IBCLC® board exam. After a student successfully completed the prerequisite general health sciences courses (offered at GNTC or almost any other college), they could apply for admission. The Human Lactation Program had 450 didactic instruction education hours (which included lab skills) and approximately 450 supervised clinical practice hours over three semesters. The clinical component included rotations in hospital labor and delivery units, mother/baby units, NICUs, pediatric offices, breastfeeding clinics, WIC offices and in-home settings. Most students in the program received financial assistance such as GNTC Foundation scholarships, Pell, HOPE, or career grants, which typically covered the full cost of tuition as well as books, supplies and other expenses of the program. For students who were not eligible for assistance, the total cost for the program was under \$8,000.<sup>8</sup>

In the five years that the program was open, the school graduated approximately 60 students who were able to sit for the IBCLC® certification exam. More than 50% of the graduates represented an underserved population, including gender, ethnic and racial minorities.<sup>9</sup>

Upon closing the program in the fall of 2023, the program director reported to the GNTC Advisory Committee that she had a list of 35 people who had made an inquiry and had expressed interest should a program return in Georgia. Local practices have expressed concern at the loss of the clinical partnership because it was a source of well-trained, hireable IBCLCs®.<sup>10</sup>

NLCA's State Advocacy Committee consults with, educates, and supports state-based advocates working to secure IBCLC® licensure in their state. Contact NLCA at [info@nlca.us](mailto:info@nlca.us) for more information or help.

<sup>1</sup> Georgia Lactation Consultant Practice Act, O.C.G.A. § 43-22A-1 et seq. (2024).

<sup>2</sup> Jackson et al. v. Raffensperger, 316 Ga. 383 (2023) <https://law.justia.com/cases/georgia/supreme-court/2023/s23a0017.html>

<sup>3</sup> U.S. Department of Health and Human Services. (2011). The Surgeon General's Call to Action to Support Breastfeeding. Washington, DC: U.S. Department of Health and Human Services, Office of the Surgeon General.

<sup>4</sup> Aldridge, L. (2022). Goliath just slayed David in Georgia. *Clinical Lactation*, 13(3), 170-176.

<sup>5</sup> Wouk, K., Chetwynd, E., Vitaglione, T., & Sullivan, C. (2017). Improving access to medical lactation support and counseling: Building the case for Medicaid reimbursement. *Maternal Child Health Journal*, 21(4), 836-844.

<sup>6</sup> International Board of Lactation Consultant Examiners (2009, 2016, 2019 and 2023). Statistical Reports. 2009 and 2016 Report copies are available from M. Gober of NLCA. [https://ibclce.org/wp-content/uploads/2023/05/2023\\_February\\_01\\_IBCLCs\\_US\\_and\\_Territories\\_FINAL.pdf](https://ibclce.org/wp-content/uploads/2023/05/2023_February_01_IBCLCs_US_and_Territories_FINAL.pdf); <https://ibclce.org/wp-content/uploads/2019/02/Statistical-Report-IBCLCs-in-AMS-2019.pdf>

<sup>7</sup> Id.

<sup>8</sup> Audrey Thompson, RN, IBCLC (informal communication), November 30, 2023.

<sup>9</sup> Id.

<sup>10</sup> Id.