

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 27, 2023

TO: The Honorable Mark Nakashima, Chair
House Committee on Consumer Protection and Commerce

FROM: Cathy Betts, Director

SUBJECT: **HCR 7 HB1/ HR 6 HB1– REQUESTING THE DEPARTMENT OF HUMAN SERVICES MED-QUEST DIVISION, IN COLLABORATION WITH THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, TO EXPAND THE TYPES OF QUALIFIED PROVIDERS ALLOWED TO PROVIDE LACTATION CONSULTANT SERVICES FOR THE MEDICAID POPULATION IN THE STATE.**

Hearing: March 29, 2023, 2:10 p.m.
Conference Room 329 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this resolution and offers comments. DHS defers to the Department of Commerce & Consumer Affairs.

PURPOSE: These resolutions request that DHS Med-QUEST Division (MQD), in collaboration with the Department of Commerce and Consumer Affairs, expand the types of qualified providers allowed to provide lactation consultant services for the Medicaid population in the State; and that MQD take any steps necessary to obtain necessary approvals, create internal processes, and credential appropriate providers who have obtained International Board of Lactation Consultant Examiners certification; and report to the Legislature on the steps taken and progress made in expanding the types of providers who can provide lactation consultant services no later than twenty days prior to the convening of the Regular Session of 2024.

The Committee on Human Services amended the resolutions by (1) Amending the title; (2) Requesting the Department of Commerce and Consumer Affairs (DCCA) to collaborate with the Department of Human Services Med-QUEST Division on expansion on types of providers allowed to provide lactation consultant services to the State's Medicaid population; (3) Including Certified Lactation Counselors as the type of counselor to be included as a qualified provider.

DHS appreciates the commitment of the Legislature to improve access to maternal and child health services of lactation consultation services and fully supports their expansion as feasible. However, MQD would respectfully clarify that qualified providers can provide lactation consultation services currently, although billing for the services may be included as part of a bundled payment code. MQD also recognizes the need for greater clarity regarding who can provide the services, how to bill for them, and in what setting may also help improve access to and the provision of lactation consultation services.

Finally, although requested to collaborate with DCCA, MQD is unable to take one of the requested actions - credentialing appropriate providers who have obtained International Board of Lactation Consultant Examiners certification or Certified Lactation Counselors, as described on page 2, lines 25-31:

“BE IT FURTHER RESOLVED that to expand the types of qualified providers, the Department of Human Services Med-QUEST Division is requested to take any steps necessary to obtain necessary approvals, create internal processes, **and credential appropriate providers** who have obtained International Board of Lactation Consultant Examiners certification or are Certified Lactation Consultants; and....”

MQD does not have the function of credentialing providers though the health plans do. Also, although MQD cannot change federal rules for enrolling Medicaid providers or regarding providers who can bill for services, MQD can research and review lactation consultation services and make changes aligned with the intent to expand access to the services. However, such changes may take longer than when the report to the legislature is due twenty days before the next session, which will start on January 17, 2024. MQD can report on these efforts in the requested legislative report.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

NADINE Y. ANDO
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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, March 29, 2023**

2:10 p.m.

State Capitol, Conference Room 329 and via Video Conferencing

On the following measure:

H.C.R 7, H.D. 1, REQUESTING THE DEPARTMENT OF HUMAN SERVICES MED-QUEST DIVISION, IN COLLABORATION WITH THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, TO EXPAND THE TYPES OF QUALIFIED PROVIDERS ALLOWED TO PROVIDE LACTATION CONSULTANT SERVICES FOR THE MEDICAID POPULATION IN THE STATE.

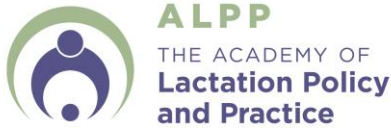
Chair Nakashima and Members of the Committee:

My name is Gordon Ito, and I am the Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this concurrent resolution.

The purpose of this bill is to request the Department of Human Services Med-Quest division, in collaboration with the Department of Commerce and Consumer Affairs, to expand the types of qualified providers allowed to provide lactation consultant services for the Medicaid population in the State.

We appreciate efforts to expand access to health care service in the State.

Thank you for the opportunity to testify on this bill.



March 27, 2023

Representative Mark Nakashima, Chair
Representative Jackson Sayama , Vice Chair
Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HR 6 / HCR 7 - REQUESTING THE DEPARTMENT OF HUMAN SERVICES MED-QUEST DIVISION TO EXPAND THE TYPES OF QUALIFIED PROVIDERS ALLOWED TO PROVIDE LACTATION CONSULTANT SERVICES FOR THE MEDICAID POPULATION IN THE STATE.

Dear Representative Nakashima and Representative Sayama,

My name is Ellie Mulpeter and I am the Director of the Academy of Lactation Policy and Practice (ALPP), a division of the Healthy Children Project, Inc. ALPP operates the Certified Lactation Counselor® (CLC®) certification program. I am testifying today to express our support of House Resolutions 6 and 7.

The Resolutions request the Med-Quest Division expand the types of qualified providers allowed to provide lactation support for the Medicaid population of Hawaii. The Resolutions have been amended to include expanded coverage for individuals who possess certification as International Board-Certified Lactation Consultants (IBCLCs) and Certified Lactation Counselors (CLCs). ALPP applauds this effort to increase access to lactation care in Hawaii and appreciates the work of the Committee of Human Services to amend the language to be more inclusive.

Last week, we made a similar request in testimony before the Senate Committee on Human Services with respect to S.R 4 and S.R.C. 6 , and the Committee also voted to include CLCs as a type of counselor to be included as a qualified provider.

CLCs are qualified to provide lactation care and services. The CLC certification program “identifies a professional in lactation counseling who has demonstrated the necessary skills, knowledge, and attitudes to provide clinical breastfeeding counseling and management support to families who are thinking about breastfeeding or who have questions or problems during the course of breastfeeding/lactation”.¹ CLCs play an important role in providing lactation care and services in Hawaii. As of today, there are 161 CLCs certified by ALPP providing vital lactation care and services in Hawaii.²

ALPP believes that expectant and breastfeeding families are best served when lactation care options are expanded, rather than restricted. To increase access to care, ALPP supports reimbursement for all qualified providers of lactation care and services based on certification by an accredited agency. Both the CLC and IBCLC certification programs are accredited by nationally recognized accreditation agencies. The CLC certification program is accredited by the American National Standards Institute (ANSI), while the IBCLC certification program is accredited by the National Commission for Certifying Agencies (NCCA).

Our approach is consistent with the *Model Policy Payer Coverage of Breastfeeding Support and Counseling Services (“Model Policy”)* issued by the United States Breastfeeding Committee and the National Breastfeeding Center. The *Model Policy* was developed to address confusion regarding which lactation care providers should be eligible for reimbursement under the Affordable Care Act. The *Model Policy* recommends that “approved lactation care providers” be eligible for reimbursement and defines “approved lactation care providers” to include:

those who ... have individual certification awarded by an independently-accredited program that measures assessment of predetermined standards for knowledge, skills, or competencies in a health-related profession, substantially equal to those articulated by the National Commission for Certifying Agencies (NCCA), the Institute for Credentialing Excellence (ICE), and American National Standards Institute (ANSI).³

Under this definition, both CLCs and IBCLCs would be eligible for reimbursement as approved lactation care providers.

¹ Academy of Lactation Policy and Practice. *Certifications*. Available at: <https://www.alpp.org/certifications/certifications-clc>

² Academy of Lactation Policy and Practice. CLCs by State. Available by request.

³ *Id.* *Model Policy* at 8, n8.

For example, we supported legislation in New York in 2019 that provided for reimbursement based on certification. The definition of an approved certification is substantially similar to the definition of “approved lactation care providers” in the *Model Policy* that requires accreditation by a “nationally or internationally recognized accrediting agency that is approved by the board [board of nursing].”⁴ The regulations implementing the legislation in new York recognize CLC and IBCLC certifications as approved certifications.⁵

We would like to request clarification on the amended language, and are happy to work with the committee should they choose to adopt these small changes.

On Page 1 of HR 6, we would like to suggest the following amendments:

ADD: “WHEREAS, a lactation counselor is a professional who provides clinical breastfeeding counseling and management support to families who are thinking about breastfeeding or who have questions or problems during the course of breastfeeding. Lactation counselors have demonstrated the skills required to provide safe, evidence-based counseling for pregnant, lactating, and breastfeeding families, including the assessment of effective/ineffective breastfeeding and milk transfer.”

EDIT: “WHEREAS, lactation consultants *and* lactation counselors in the United States are often nurses, midwives, nurse practitioners, dietitians, and other healthcare professionals who have obtained additional certification through the International Board of Lactation Consultant Examiners or *the Academy of Lactation Policy and Practice.*”

On Page 2 of HR 6:

EDIT: “WHEREAS, Hawaii’s QUEST Integration Program, which provides eligible low — income adults and children access to health and medical coverage through managed care plans, does not currently allow all qualified providers who have obtained *the International Board-Certified Lactation Consultant (IBCLC) certification or the Certified Lactation Counselor (CLC) certification* to provide lactation support services; and”

EDIT: “BE IT FURTHER RESOLVED that to expand the types of qualified providers, the Department of Human Services Med-QUEST Division is requested to take any steps necessary to obtain necessary approvals, create internal processes, and credential appropriate providers who have obtained *the International Board-Certified Lactation Consultant (IBCLC) certification or the Certified Lactation Counselor (CLC) certification.*”

⁴ *Id.* at § 61-36-2B. In addition, the definition requires continuing education.

⁵ AB 2345/SB 3387 - An act to amend the social services law, in relation to lactation counseling services. Available from: <https://www.nysenate.gov/legislation/bills/2019/S3387>

As you have seen in the testimonies provided on these House Resolutions, the language used to describe both certifications is important to the implementation of any legislation around the profession. I appreciate the opportunity to provide these suggestions and to testify in support of these resolutions. I am available should you have any questions.

Sincerely,

Ellie Mulpeter, MPH, CLC
Director, Academy of Lactation Policy and Practice
PO Box 2170
South Dennis, MA 02660



March 29, 2023

The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HCR7 HD1/ HR6 HD1 – requesting the Department of Human Services Med-QUEST Division, in collaboration with the Department of Commerce and Consumer Affairs, to expand the types of qualified providers allowed to provide lactation consultant services for the Medicaid population in the state.

Dear Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide testimony in support of HCR7 HD1 and HR6 HD1, which are requesting the Department of Human Services Med-QUEST Division, in collaboration with the Department of Commerce and Consumer Affairs, to expand the types of qualified providers allowed to provide lactation consultant services for the Medicaid population in the state.

We thank the Women’s Caucus for introducing this resolution to increase access. We also thank DHS Med-QUEST for continuing to care for Hawaii residents and for their shared commitment to strengthening health and well-being in Hawaii. Prioritization of access to maternal health care is critically important for ensuring health and well-being for mothers and future generations. The U.S. Department of Health and Human Service Office of Disease Prevention and Health Promotion notes, “Improving the well-being of mothers, infants, and children is an important public health goal for the United States. Their well-being determines the health of the next generation and can impact future public health challenges for families, communities, and the health care system.”

We urge the legislature to encourage access to lactation consultant services for Hawaii’s Medicaid beneficiaries. The evidence for the benefits of breastfeeding are widely researched and published and it’s important to ensure that all mothers have access to these services, including QUEST members. HMSA’s Pregnancy Support Program currently supports QUEST members in need of lactation consultant services by referring them to various community resources. However, these community resources have limited access. The Affordable Care Act mandates that health insurance plans must provide breastfeeding support, counseling, and equipment for the duration of breastfeeding¹ and states including New York², Georgia³, and Washington, D.C.⁴ are already successfully providing reimbursement to certified health care professionals who are International Board Certified Lactation Consultants (IBCLCs) through Medicaid. Hawaii has an incredible opportunity to increase access and outcomes by expanding the types of qualified

¹ <https://www.healthcare.gov/coverage/breast-feeding-benefits/>

² https://health.ny.gov/community/pregnancy/breastfeeding/medicaid_coverage/lactation_counseling_services.htm

³ <https://dch.georgia.gov/announcement/2022-08-05/dch-enrolling-lactation-consultants-new-provider-type>

⁴ http://www.dcbfc.org/pdfs/Medicaid_Enrollment_and_Reimbursement_for_the_IBCLC_122020.pdf



providers allowed to provide lactation consultant services for the Medicaid population in the State.

Thank you for the opportunity to testify in support of HCR7 HD1 and HR6 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dawn Kurisu', is positioned below the word 'Sincerely,'.

Dawn Kurisu
Assistant Vice President
Community and Government Relations



HMIHC

HAWAII MATERNAL & INFANT
HEALTH COLLABORATIVE

TO: House Committee on Consumer Protection & Commerce
Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair

FROM: Hawai'i Maternal & Infant Health Collaborative

RE: HCR7 HD1 / HR6 HD1

Wednesday, March 29, 2023, 2:10 PM
Hawaii State Capitol, Conference Room 329 and via Videoconference

POSITION: STRONG SUPPORT

Dear Chair Nakashima, Vice Chair Sayama, and Committee Members,

Thank you for the opportunity to submit testimony in **STRONG SUPPORT** of HCR7 HD1/HR6 HD1 Requesting The Department Of Human Services Med-Quest Division, In Collaboration With The Department Of Commerce And Consumer Affairs, To Expand The Types Of Qualified Providers Allowed To Provide Lactation Consultant Services For The Medicaid Population In The State.

Human milk provides optimal nutrition for babies, and breastfeeding parents should be provided appropriate and timely clinical support to achieve their feeding goals. Currently, families in Hawai'i often face significant barriers to accessing lactation services because only a handful of providers are reimbursable by health insurance, including Med-QUEST plans. This Resolution would be an important step toward improving our communities' access to lactation support services, and thereby improving maternal/'ohana health and well-being and reducing health inequities.

International Board Certified Lactation Consultants (IBCLCs) represent the "gold standard" in clinical care for lactation challenges. Their rigorous training and certification process includes: health sciences education (clinical healthcare profession or 14 courses), 90 hours of lactation-specific training, 300-1,000 lactation-specific clinical hours, and passing an international exam. Given the rigor of their training and certification process, and their comprehensive skill set and knowledge base, IBCLCs should be the focus for Med-QUEST in establishing credentialing and reimbursement pathways.

Additional providers play important roles in the continuum of breastfeeding support, but should not be conflated or confused with IBCLCs. Other provider types include but are not limited to: Certified

Lactation Counselor (CLC), Indigenous Breastfeeding Counselor (IBC), Certified Breastfeeding Educator (CBE), and Certified Breastfeeding Specialist (CBS). These providers complete approximately 45-52 hours of training and an exam. Of note, local partners coordinated an IBC training in Waimānalo in 2019 that included 32 participants from across six of Hawai'i's islands.

HD1 included an amendment to add Certified Lactation Counselors (CLCs) to IBCLCs, but did not include similar provider types, such as Indigenous Breastfeeding Counselors (IBCs). We ask the Committee to consider one of the following amendments for the Resolution:

1. Re-focus on only IBCLCs, as the gold standard clinical lactation provider, *OR*
2. Broaden to include other provider types, including Indigenous Breastfeeding Counselors (IBCs) along with Certified Lactation Counselors (CLCs) and others, to represent the diverse spectrum of breastfeeding support providers in our State and to acknowledge the importance of indigenous knowledge.

HMIHC convenes a Statewide Breastfeeding Workgroup of government and non-government partners, including a variety of clinical providers working in lactation support. We would encourage Med-QUEST to connect with us as they pursue the work outlined in this Resolution. Access to lactation support will improve the health and wellness of our communities, and we appreciate the efforts of the Legislature and Med-QUEST on this issue.

Mahalo nui for the opportunity to testify.

TO: Representative Nakashima, Chair
Representative Sayama, Vice Chair
Members of Committee on Consumer Protection and Commerce

FROM: Patricia L. Bilyk, RN, MPH, MSN, Retired IBCLC
Maternal Infant Clinical Nurse Specialist

DATE: Wednesday, March 29, 2023 2:10pm

RE: HCR 7 HD1/HR 6 HD1 SUPPORT WITH AMENDMENTS

Requesting the Department of Human Service MedQuest Division in collaboration with
The Department of Commerce and Consumer Affairs to Expand the Types of Qualified
Providers Allowed to Provide Lactation Consultant Services for the Medicaid Population
In the State

Good Afternoon.

I am Patricia Bilyk, an Advanced Practice Registered Nurse. I previously was an
IBCLC-International Board Certified Lactation Consultant from 1989-2019 in our State. I
continue to work on policy changes in Hawaii with Breastfeeding Hawaii, nationally recognized
by the US Breastfeeding Committee as the organization supporting, promoting and protecting
breastfeeding in our State.

I support the ORIGINAL RESOLUTION of MedQuest reimbursement for IBCLCs ONLY at this
time. I feel since the IBCLC credential is the Gold Standard internationally and nationally for the
Lactation Profession which includes such professions as Doctors-Pediatricians, Obstetricians,
Nurses, Midwives, Nutritionists, Physical and Occupational Therapists, and even Dentists, this
credential needs to be the FIRST TO BE CREDENTIALLED AND REIMBURSED in our STATE.

Certainly there are other lactation providers besides the IBCLC in our Community with less
education, standardized practice under a qualified lactation provider and oversight for renewal of
credential. These providers are CLC-Certified Lactation Counselor, CLE-Certified Lactation
Educator, IBC-Indigenous Breastfeeding Counselors and WIC Peer Counselors.

I feel it would be the best to create the IBCLC reimbursement mechanism FIRST, establishing a
process for this well established credential. Later include the other providers when the process
has been vetted and further discussion of their credentials has occurred.

I thank you for the opportunity to provide my testimony.

HCR-7-HD-1

Submitted on: 3/28/2023 11:52:37 PM

Testimony for CPC on 3/29/2023 2:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Lea Minton	Individual	Support	Written Testimony Only

Comments:

Dear House CPC Committee:

Thank you for the opportunity to provide testimony in support of HCR7 HD1/HR6 HD1. As a lactation consultant, and previous board president of Breastfeeding Hawaii, I strongly support expanding access to lactation services for Medicaid members. Thank you for your work in moving this forward.

I have some concerns regarding the HD1 amendments that I would like to share my knowledge about.

1) Requesting MedQUEST to credential lactation consultants is, to my experience, a concern and issue. I also reviewed Cathy Betts' testimony for the initial HCR7/HR 6 hearing and am in agreement with it. My experience over the years in working to further lactation support access is that MedQUEST can't credential a provider who is not recognized either through CMS or who holds a state license. If they hold a state license but are not recognized as a billable provider by CMS then Medicaid can apply for a state plan amendment to recognize the licensed professional group for services. Lactation consultants are not licensed in Hawaii, and the licensing statute does not allow for licensing a profession merely for the sake of reimbursement. If Medicaid could credential lactation consultants, I believe they already would have. I humbly ask the CPC committee to consider changing the credentialing language within HCR7 HD1/HR6 HD1 to a more general relationship term that would allow MedQUEST to find a different payment/ access option for lactation consultant services without requiring the only pathway to be through credentialing.

2) The HD1 amendment added Certified Lactation Counselor to the resolution. My concern with this is related to two concepts:

a) there is a substantial difference in scope of practice between an International Board Certified Lactation Consultant (IBCLC) and a Certified Lactation Counselor (CLC), and I'm unclear if legislators and MedQUEST have knowledge of this, as the scope of an unlicensed/ unregulated provider is not defined. I acknowledge the resolution does not explicitly state they are equivalent, though it does potentially convey this. Training requirements are different as the scope is different. IBCLCs are required to complete a minimum of 14 health science courses, 90 hours of lactation education, 5 hours of communication and between 500-1000 hours minimum of supervised hands on lactation clinical training, or attend an accredited lactation education

program. They then must pass a international board certified exam. A CLC attends a week long training approximately 45 hours in length and takes an exam.

b) CLCs are valuable to the community, and that brings me to my other main concern with the amendment. There are many different equivalent trainings to a CLC that are excluded in the resolution. Organizations trademark their lactation counselor training program names, so only one company provides training to become a CLC. However there are numerous companies that provide very similar training, from between 20-50 hours of lactation education, many with an exam at the end, but they are called different titles since different organizations offer them. Below is an example of the different potential lactation support titles based on the company and program someone may have completed. My concern is that MedQUEST would be favoring one company over at least 13 others. My ask is that if MedQUEST is including CLCs, that they also include all other lactation support providers so that we do not unfairly favor one company. This is not an issue with the IBCLC as it is an international board certification and only one organization in the world certifies this specialty and defines the scope of practice for IBCLCs.

Thank you for supporting the health of our community and the opportunity to testify in strong support of HCR7 HD1/ HCR6 HD1. I do encourage your committee to consider amendments to HD1 in order to align it with MedQUEST's abilities to expand access to non-licensed lactation specialists.

Mahalo,

Le'a Minton, APRN, CNM, IBCLC, IMH-E

Lactation Certificate Programs & Peer Support

- [ALC: Advanced Lactation Consultant](#) – completed 90 hours training
- [ANLC: Advance Nurse Lactation Counselor](#) – completed 90 hours training
- [BEC: Breastfeeding Educator Certification](#) - completed course requirements & attended 10 breastfeeding meetings
- [BC: Breastfeeding USA Counselor](#) - breastfed baby at least 1 year & completed training
- [CBE: Community Breastfeeding Educator](#) - completed 20 hours training
- [CBC: Certified Breastfeeding Counselor](#) - completed mentored on-line training & 30 hours of breastfeeding support
- [CBS: Certified Breastfeeding Specialist](#) - completed 45 or 90 hours training
- [CLC: Certified Lactation Counselor](#) - completed 45-52 hours training
- [CLE: Certified Lactation Educator](#) - completed 20 hours training
- [CLEC: Certified Lactation Educator Counselor](#) - completed 45 hours training
- [CLS: Certified Lactation Specialist](#) - completed 45 hours training
- [IBC: Indigenous Breastfeeding Counselor](#) - completed 45 hours training
- [LLLL: La Leche League Leader](#) - breastfed baby at least 9 months & LLL member
- [WIC Peer Counselor](#) – completed between 20-50 hours training & breastfed at least 6 months