

On January 14, 2020, oral arguments were heard in the Supreme Court of Georgia regarding the Georgia Lactation Consultant Practice Act. (Jackson et al. v. Brad Raffensberger. archived here: <https://www.gasupreme.us/watch/oa-01-14-20/>)

In order to educate the public, the press and other interested parties, SELCA has outlined below many of the inaccuracies presented to the Georgia Supreme Court by counsel for the plaintiffs.

Plaintiffs Assert in Oral Argument	Reality
<p>“Q: What you told me before is that there is really no difference between mom and the ‘leading lactation consultant teacher in the universe.’ ... They’re equally competent....</p> <p>A: Yes, your honor.” 16:44 (refers to the minute and section in the archived recording)</p>	<p>If that were true, the <a href="#">CDC</a>, <a href="#">Academy of Breastfeeding Medicine</a>, <a href="#">American Academy of Pediatrics</a>, <a href="#">American College of Obstetricians &amp; Gynecologists</a>, <a href="#">American Academy of Family Physicians</a>, and many other medical professionals would not have published the plethora of <a href="#">research</a> and guidance that has been generated on the need for clinical breastfeeding care.</p> <p>In fact, one of the plaintiffs makes her living using her breastfeeding knowledge and, as one Supreme Justice pointed out, uses the Certified Lactation Counselor (“CLC”) credential after her name as an “inducium” of greater knowledge than the average mother.</p> <p>The entire field of lactation support exists because most mothers need qualified support to succeed. Indeed, <a href="#">Georgia data</a> shows that most mothers stop breastfeeding <b>before they had intended</b> because of clinical issues that they are unable to solve themselves.</p>
<p>“Georgia is the only state that does this” (regulates lactation consultants). 11:49</p>	<p>Not true. At the time the <a href="#">Georgia Act</a> was passed in 2016, Rhode Island already had its 2014 <a href="#">law</a> regulating lactation consultants. Several other states have since passed regulatory laws governing lactation consultants.</p>
<p>“Q: You indicated that it requires a college degree. Is that unreasonable?</p> <p>A: Yes, your honor.” 12:19</p>	<p>Not true. The <a href="#">Georgia Act</a> does not require a college degree.</p> <p>It requires the same college level courses in 14 subject areas required by the International Board of Lactation Consultant Examiners (<a href="#">IBLCE</a>). IBLCE does not require a college degree. Further, all courses may be taken online, at community or technical colleges and CLEP exams can be substituted for college classes.</p>
<p>“This law requires someone to stop</p>	<p>Not true. Nothing in the <a href="#">Georgia Act</a> requires the clinical hours to be unpaid or for anyone to stop working.</p>

<p>working and do hundreds of hours of unpaid clinical work.” 12:45</p>	<p>In fact, there is an exception for student practice in <a href="#">O.C.G.A. section 43-22A-13(3)</a>. Supervised work experience is specifically approved by <a href="#">IBLCE for clinical hours</a>.</p>
<p>“Q: If the Act allowed some sort of period of time that you were practicing when the Act went into effect and within three years you had to do that, would that be an excessive regulation?”</p> <p>A: That sounds far more reasonable, but that’s not what’s happening here.” 12:51</p>	<p>That is almost exactly what the Georgia Act did! The <a href="#">Georgia Act</a> allowed two years for non-IBCLCs to get the education and training required to become licensed before enforcement.</p> <p>The bill was signed into law in the Spring of 2016, but enforcement was delayed, per the statute, until July 1, 2018. See, <a href="#">O.C.G.A. § 43-22A-11</a>.</p> <p>The two-year period was the estimate provided to the legislature to complete the training and education requirements.</p> <p>Indeed, the <a href="#">Lactation Consultancy program at Georgia Northwestern Technical College</a> is a two-year program.</p>
<p>“This is a law that was written by IBCLCs, for IBCLCs.” 14:21</p>	<p>Not true. The law was written by legal counsel to the Legislature. It was amended over 10 times including twice with language proffered by representatives of the plaintiffs. Other amendments were proffered by the Georgia Nursing Association, the Georgia Hospital Association, the Secretary of State’s office and many others.</p> <p>Moreover, the non-profit leading the advocacy effort for the legislation was <a href="#">Healthy Mothers, Healthy Babies Coalition of Georgia</a> whose Board President and Chair of its Advocacy Committee at the time was Merrilee Aynes Gober, BSN, RN, JD. Ms. Gober has decades of maternal and infant expertise, but is NOT an IBCLC.</p> <p>There were also more than a dozen letters of support from medical, hospital, and other healthcare organizations.</p>
<p>“Lactation Consultants provide woman on woman advice about breastfeeding.” 2:22</p>	<p>Legal counsel consistently refers to the plaintiff as a “lactation consultant.” However, her certificate from the Healthy Children Project, Inc. designates her as a “counselor.”</p> <p>Further, “lactation consultants” may be men; nothing requires them to be women.</p>

	<p>Finally, by claiming lactation consultants only offer “advice,” counsel for the plaintiffs belittles the work of lactation consultants worldwide who work with high acuity patients, in NICUs and post-discharged patients in the community, offering clinical care for our most vulnerable newborns.</p> <p>Notably, “lactation consulting” includes medical histories, physical assessments, clinical applications of skill and knowledge, and a plan of care. It is not mere “advice.”</p> <p>See the <a href="#">Georgia Act</a> for an outline of “lactation care and services.”</p>
<p>“If the Act goes into effect it would instantly put over 800 women who do this type of work out of work”. 3:03 and 12:09</p>	<p>This claim is patently false. It blatantly ignores the many exceptions to the law and Healthy Children Project, Inc.’s own data.</p> <p>The public <a href="#">data</a> of <a href="#">Healthy Children Project, Inc.</a> estimates over 75% of its CLC certificate holders also have another healthcare license, which exempts them from the law.</p> <p>Many CLCs work for WIC as peer counselors; they too are exempt from licensure and can continue to work in their jobs.</p> <p>CLCs who are providing education, whether employed or self-employed, can also continue their work.</p> <p>All education and classes are EXEMPT (no matter who performs them). Working students are EXEMPT.</p> <p>To clarify, the only CLCs who are impacted by this law are CLCs who work for pay, outside of the WIC program (or outside of any state or federal program), who do NOT have another healthcare license AND who are working <u>clinically</u>.</p> <p>Moreover, this law is improving access to competent clinical lactation care. Since its inception in 2016, the number of IBCLCs in Georgia has increased by 30%.</p>
<p>“All types of lactation consultants have practiced safely in</p>	<p>Wrong. The Georgia Legislature was proffered letters and heard testimony documenting harm from unskilled, non-IBCLC care in Georgia.</p>

<p>Georgia for decades with equal competency” 2:25 and 9:33</p> <p>“There is no evidence that any unlicensed lactation consultant has ever harmed the public.” 2:40</p>	<p>There were six different public hearings which included testimony of mothers, physicians, nurses, IBCLCs, and public health advocates, all united in their call for minimum, safe standards for clinical lactation provider care.</p> <p>The bill was debated in two regulatory hearings (including one where a representative of the plaintiffs testified), three hearings before the House, one hearing before the Senate and was debated on the floor of both the House and the Senate.</p> <p>Further, opposition hired a paid lobbyist to present their case before House and Senate leaders.</p> <p>The issue was before the General Assembly for five (5) years which carefully balanced its goal of protecting our new mothers and babies with access to care. They concluded minimum education and training standards were essential for clinical care in order to protect the public.</p> <p>This type of minimum educational and training standards are also in place for each and every other licensed healthcare provider in Georgia – from dietitians to occupational therapists to nurses.</p> <p>Testimony of harm and questions of safety and competency led the General Assembly to regulate this profession via the Georgia Lactation Consultant Practice Act.</p>
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