

SENATE, No. 731

STATE OF NEW JERSEY
215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

The “Fitness Professionals Certification Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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2

1 AN ACT providing for the certification of fitness professionals and
2 the registration of certain employers, supplementing Title 45 of
3 the Revised Statutes, and amending P.L.1978, c.73 and P.L.1987,
4 c.238.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) This act shall be known and may be cited as
10 the "Fitness Professionals Certification Act."

11

12 2. (New section) As used in this act:

13 "Advisory committee" or committee" means the Fitness
14 Professionals Advisory Committee.

15 "Board" means the State Board of Medical Examiners.

16 "Exercise facility" means a health club, fitness center, wellness
17 center, private personal training studio, or any facility that sells or
18 offers for sale group exercise instruction, other than yoga, martial
19 arts, or Pilates. An exercise facility shall not include medical
20 offices, chiropractor offices or physical therapy centers or any
21 facility that operates as a non-profit entity.

22 "Fitness professional" means a personal trainer or a group fitness
23 instructor who is certified as a fitness professional pursuant to the
24 provisions of this act.

25 "Group fitness instructor" means an individual who instructs
26 more than one person at one time, with or without equipment, in
27 exercises designed to improve cardiovascular conditioning,
28 muscular strength, flexibility and weight loss in classes that include,
29 but are not limited to, kickboxing, boot camp, spinning and any
30 other group class that is taught at an exercise facility.

31 "Personal trainer" means a person who evaluates an individual's
32 physical fitness; develops a personal exercise plan or program for
33 an individual; and demonstrates, with or without equipment,
34 exercises designed to improve cardiovascular condition muscular
35 strength, flexibility and weight loss.

36

37 3. (New section) a. There is created within the Division of
38 Consumer Affairs in the Department of Law and Public Safety
39 under the State Board of Medical Examiners, a Fitness
40 Professionals Advisory Committee. The committee shall consist of
41 seven members who are residents of the State four members shall
42 be actively engaged in practice as a fitness professional with at least
43 five years experience immediately preceding their appointment, one
44 of whom shall be a representative of a health club, and all of whom,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 except for the members first appointed, shall be certified as fitness
2 professionals pursuant to this act, one member shall be a physician
3 licensed in this State; one member shall be a physical therapist
4 licensed in this State; and one member shall be a representative of
5 the general public. Each of the four fitness professional members
6 first appointed shall possess, at a minimum, an associate's degree in
7 any health and fitness related field of study.

8 b. The Governor shall appoint each member to the committee
9 for terms of three years, except that of the fitness professionals first
10 appointed, two shall serve for a term of three years, one shall serve
11 for a term of two years and one shall serve for a term of one year.
12 Each member shall hold office until his successor has been
13 qualified. Any vacancy in the membership of the committee shall
14 be filled for the unexpired term in the manner provided for the
15 original appointment. No member of the committee may serve
16 more than two successive terms in addition to any unexpired term to
17 which he has been appointed.

18 c. The committee shall meet at least twice a year and shall also
19 meet upon the call of the board or Attorney General.

20 d. The board, with the approval of the Attorney General, may
21 authorize reimbursement of the members of the committee for their
22 actual expenses incurred in connection with the performance of
23 their duties as embers of the committee.

24
25 4. (New section) No person shall use the words "fitness
26 professional," "certified fitness professional," "personal trainer,"
27 "certified personal trainer," "group fitness instructor," or "certified
28 group fitness instructor" nor provide, present, call or represent
29 himself as able to practice fitness training, personal training or
30 group fitness instruction unless certified in accordance with the
31 provisions of this act.

32
33 5. (New section) To be eligible for certification as a fitness
34 professional, an applicant shall fulfill the following requirements:

35 a. Be 18 years of age or older;

36 b. Be of good moral character;

37 c. Have successfully completed high school or its equivalent;

38 d. (1) (a) Have successfully completed an approved course of
39 study of not less than 200 classroom hours, a portion of which shall
40 be in-person, as prescribed by the board after consultation with the
41 Department of Education and the Department of Labor and
42 Workforce Development, and which shall include not less than 50
43 hours of an internship in the presence of and under the direct
44 supervision of a certified fitness professional; and

45 (b) have passed an in-person examination administered or
46 approved by the board; or

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1 (2) possess an, at a minimum associate's degree in any health and
2 fitness related field of study.

3
4 6. (New section) The board shall issue to any person upon
5 application a certification to practice as a fitness professional, if the
6 applicant meets the requirements of subsections a., b. and c. of
7 section 5 of this act and: a. has been engaged as a personal trainer
8 or a group fitness instructor prior to the effective date of this act; b.
9 holds a current certificate from an agency or program accredited by
10 the National Commissioner for Certifying Agencies, or its successor
11 organization, and which is also approved by the board, to practice
12 personal training; and c. applies and becomes certified no later than
13 two years following the promulgation of initial regulations by the
14 board.

15
16 7. (New section) a. The board shall by rule or regulation
17 establish, prescribe or change the fees for certifications, renewals of
18 certifications, or other services provided by the board pursuant to
19 the provisions of this act. Licenses shall be issued for a period of
20 three years and be renewable every three years, except that the
21 board may, in order to stagger the expiration dates thereof, provide
22 that those certificates first issued or renewed after the effective date
23 of this act shall expire or become void on a date fixed by the board,
24 not sooner than six months nor later than 41 months after the date
25 of issue.

26 b. Fees shall be established, prescribed or changed by the board
27 to the extent necessary to defray all proper expenses incurred by the
28 board, and any staff employed to administer this act, except that
29 fees shall not be fixed at a level that will raise amounts in excess of
30 the amount estimated to be so required.

31
32 8. (New section) The provisions of this act shall not apply to
33 any person licensed by the State to practice: medicine and surgery;
34 physical therapy; chiropractic; or athletic training if that person is
35 acting within the scope of practice of his profession.

36
37 9. (New section) a. The board shall require each fitness
38 professional, as a condition for a certification renewal pursuant to
39 section 7 of this act, to complete continuing education requirements
40 as approved by the board.

41 b. The board shall: (1) establish standards for continuing
42 education, including the number of hours required for certification
43 renewal, the subject matter and content of courses of study, and the
44 selection of instructors; (2) approve educational programs offering
45 continuing education credits, in which one hour of instruction shall
46 be of credit upon satisfactory proof of the completion of any
47 continuing education program.

1 c. The board may, in its discretion waive requirements for
2 continuing education on an individual basis for reasons of hardship,
3 including illness or disability, retirement of a certification, or other
4 good cause.

5

6 10. (New section) The board may require completion of
7 continuing education credits on a pro rata basis for any registration
8 periods commencing more than 12 but less than 36 months
9 following the effective date of this act.

10

11 11. (New section) a. A fitness professional shall not engage in
12 practice as a fitness professional with any individual unless the
13 fitness professional first recommends, in a manner as prescribed by
14 the board, that the individual complete an appropriate medical
15 screening prior to receiving any service. An individual's refusal to
16 complete a medical screening, or acknowledgement of the
17 completion of a medical screening without further proof, shall not
18 prohibit the fitness professional from offering or providing services
19 to that individual.

20 b. A fitness professional shall not, within the context of group
21 fitness instruction, or a personal exercise plan or program, examine,
22 evaluate, treat, or rehabilitate a condition or injury to any
23 individual, unless done under the direct supervision of a physician
24 licensed in this State.

25 c. A fitness professional shall immediately refer an individual to
26 an appropriate health care professional licensed in this State if the
27 fitness professional has reasonable cause to believe that group
28 fitness instruction or a personal exercise plan or program is
29 contraindicated or a condition, injury, or symptom is present that
30 requires services outside the scope of the fitness professional's
31 practice.

32

33 12. (New section) The board, after consultation with the Fitness
34 Professionals Advisory Committee, shall establish, pursuant to the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.), rules and regulations for the administration and enforcement
37 of this act.

38

39 13. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read
40 as follows:

41 2. The provisions of this act shall apply to the following boards
42 and all professions or occupations regulated by, through or with the
43 advice of those boards: the New Jersey State Board of
44 Accountancy, the New Jersey State Board of Architects, the New
45 Jersey State Board of Cosmetology and Hairstyling, the Board of
46 Examiners of Electrical Contractors, the New Jersey State Board of
47 Dentistry, the State Board of Mortuary Science of New Jersey, the

1 State Board of Professional Engineers and Land Surveyors, the
2 State Board of Marriage and Family Therapy Examiners, the State
3 Board of Medical Examiners, the New Jersey Board of Nursing, the
4 New Jersey State Board of Optometrists, the State Board of
5 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
6 the Board of Pharmacy, the State Board of Professional Planners,
7 the State Board of Psychological Examiners, the State Board of
8 Examiners of Master Plumbers, the State Board of Court Reporting,
9 the State Board of Veterinary Medical Examiners, the State Board
10 of Chiropractic Examiners, the State Board of Respiratory Care, the
11 State Real Estate Appraiser Board, the State Board of Social Work
12 Examiners, the State Board of Examiners of Heating, Ventilating,
13 Air Conditioning and Refrigeration Contractors, the State Board of
14 Physical Therapy Examiners, the State Board of Polysomnography,
15 the Professional Counselor Examiners Committee, the New Jersey
16 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,
17 the Occupational Therapy Advisory Council, the Electrologists
18 Advisory Committee, the Acupuncture Advisory Committee, the
19 Alcohol and Drug Counselor Committee, the Athletic Training
20 Advisory Committee, the Certified Psychoanalysts Advisory
21 Committee, the Fire Alarm, Burglar Alarm, and Locksmith
22 Advisory Committee, the Home Inspection Advisory Committee,
23 the Interior Design Examination and Evaluation Committee, the
24 Hearing Aid Dispensers Examining Committee, the Landscape
25 Architect Examination and Evaluation Committee, the Perfusionists
26 Advisory Committee, the Physician Assistant Advisory Committee,
27 and the Audiology and Speech-Language Pathology Advisory
28 Committee, the New Jersey Board of Massage and Bodywork
29 Therapy, the Genetic Counseling Advisory Committee, the Fitness
30 Professionals Advisory Committee and any other entity hereafter
31 created under Title 45 to license or otherwise regulate a profession
32 or occupation.

33 (cf: P.L.2007, c.337, s.12)

34

35 14. Section 2 of P.L.1987, c.238 (C.56:8-40) is amended to read
36 as follows:

37 2. Each person who sells or offers for sale health club services
38 in this state shall register with the director on forms the director
39 provides. the registration shall be renewed every two years. Upon
40 the sale of the health club facility or a change in the majority
41 ownership of the stock of the corporate owner, the health club
42 facility shall register with the director and shall pay the registration
43 fee. The person shall provide the full name and address of each
44 business location where health club services are sold in the State, a
45 statement certifying that any fitness professional, as defined in
46 section 2 of P.L. , c. (C.) (pending before the Legislature as
47 this bill), employed by the person, or who otherwise uses the health

1 club facility to provide personal training or group fitness
2 instructing, shall be properly certified in accordance with the
3 “Fitness Professionals Certification Act, “P.L. _____, c. (C. _____)
4 (pending before the Legislature as this bill), as well as any other
5 information regarding the ownership and operation of each health
6 club that the director deems appropriate. The registration and
7 renewal fees shall be established or changed by the director and
8 shall be fixed at a level to allow for the proper administration and
9 enforcement of this act, but shall not be fixed at a level that will
10 raise amounts in excess of the amount estimated to be so required.

11 (cf: P.L.1987, c.238, s.2)

12

13 15. Sections 1 through 3 and 12 of this act shall take effect
14 immediately, and the remaining sections shall take effect on the
15 first day of the second month next following the initial
16 promulgation of final regulations by the State Board of Medical
17 Examiners necessary to effectuate the purposes of this act.

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STATEMENT

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22 This bill provides for the licensing of fitness professionals. It
23 establishes a seven member “State Board of Fitness Professionals”
24 in the Division of Consumer Affairs in the Department of Law and
25 Public Safety. The board shall consist of seven members who are
26 residents of the State, two of whom shall be public members and
27 one of whom shall be a member of the Executive Branch. The four
28 remaining members shall have been actively engaged in practice as
29 fitness professionals for at least five years immediately preceding
30 their appointment and all of whom, except for the members first
31 appointed, shall be licensed as fitness professionals pursuant to the
32 bill.

33 The bill defines a “fitness professional” as a personal trainer or a
34 group fitness instructor who is licensed as a fitness professional
35 pursuant to the provisions of the bill.

36 To be eligible for licensure as a fitness professional, an applicant
37 must:

- 38 • be of good moral character; and
- 39 • have successfully completed high school or its equivalent;
40 and
- 41 • have successfully completed an approved course of study of
42 not less than 300 in-person classroom hours, as prescribed
43 by the board after consultation with the Department of
44 Education and the Department of Labor and Workforce
45 Development, which shall include not less than 50 hours of
46 an unpaid internship in the presence of and under the direct
47 supervision of, a licensed fitness professional, which

1 internship shall be provided by the school providing the
2 approved course of study; and (b) have passed an
3 examination administered or approved by the board; or (2)
4 possess an associate's or bachelor's degree in physical
5 education, exercise science, exercise physiology or adult
6 fitness.

7 The bill stipulates that no person shall use the words "fitness
8 professional," "licensed fitness professional," "personal trainer,"
9 "licensed personal trainer," "group fitness instructor," or "licensed
10 group fitness instructor" nor provide, present, call or represent
11 himself as able to practice fitness training, personal training or
12 group fitness instruction unless licensed in accordance with the
13 provisions of this bill.

14 The bill provides that a person currently acting as a fitness
15 professional may receive a license from the board provided that the
16 applicant meets certain requirements and: has been engaged in
17 practice as a fitness professional for compensation prior to the
18 effective date of the bill; holds a current certificate from the
19 National Board of Fitness Examiners, or any organization approved
20 by the board, to practice as a fitness professional; and provides
21 proof to the board that the individual is enrolled in an approved
22 course of study of not less than 150 in-person classroom hours, as
23 prescribed by the board, which course of study shall be completed
24 no later than 18 months following the promulgation of regulations
25 by the board.

26 Fitness professional licenses shall be issued for a period of two
27 years and be biennially renewable, except that the board may, in
28 order to stagger the expiration dates thereof, provide that those
29 licenses first issued or renewed after the effective date of this bill
30 shall expire or become void on a date fixed by the board, not sooner
31 than six months nor later than 29 months after the date of issue.

32 The bill also provides that the provisions of the bill shall not
33 apply to any person licensed by the State to practice: medicine and
34 surgery; physical therapy; chiropractic; or athletic training if that
35 person is acting within the scope of practice of his profession.

36 The bill also provides that the board shall require each fitness
37 professional, as a condition for biennial license renewal, to
38 complete 25 credit hours of continuing education requirements. In
39 furtherance of that requirement, the board shall: establish standards
40 for continuing education, including the subject matter and content
41 of courses of study and the selection of instructors; approve
42 educational programs offering continuing education credits; and
43 approve other equivalent educational programs and establish
44 procedures for the issuance of credit upon satisfactory proof of the
45 completion of these programs.