

Suggested Allocation: ss. 1-12: C.45:9-37.111 et seq.; s.15: eff. date & Note to all to P.L.2009, c.143

**SENATE COMMERCE COMMITTEE**

**AMENDMENTS**

to

**SENATE, No. 2164**

(Sponsored By Senator SARLO)

**REPLACE TITLE TO READ:**

AN ACT providing for the '[licensing] certification' of fitness professionals and the registration of certain employers, supplementing Title 45 of the Revised Statutes ' and amending '[various parts of the statutory law] P.L.1978, c.73 and P.L.1987, c.238'.

**REPLACE SECTION 1 TO READ:**

1. (New section) This act shall be known and may be cited as the "Fitness Professionals '[Licensing] Certification' Act."

**REPLACE SECTION 2 TO READ:**

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

'["Board"] "Advisory committee" or "committee"' means the '[State Board of] Fitness Professionals 'Advisory Committee'.

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

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

"Fitness professional" means a personal trainer or a group fitness instructor who is '[licensed] certified' as a fitness professional pursuant to the provisions of this act.

"Group fitness instructor" means an individual who instructs more than one person at one time, with or without equipment, in exercises designed to improve cardiovascular conditioning, muscular strength, flexibility and weight loss in classes that include, but are not limited

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to, '[martial arts, Pilates, yoga,]' kickboxing, boot camp, spinning and any other group class that is taught at an exercise facility.

“Personal trainer” means a person who evaluates an individual's '[health and]' physical fitness; develops a personal exercise plan or program for an individual; and demonstrates, with or without equipment, exercises designed to improve cardiovascular condition muscular strength, flexibility and weight loss.

REPLACE SECTION 3 TO READ:

3. (New section) a. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety <sup>1</sup>, under the State Board of Medical Examiners, a Fitness Professionals Advisory Committee<sup>1</sup>. The '[board] committee' shall consist of seven members who are residents of the State <sup>1</sup>, two of whom shall be public members appointed pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one of whom shall be a member of the Executive Branch appointed in fulfillment of the requirement of subsection c. of that section. The] as follows:<sup>1</sup> four '[remaining]' members shall '[have been] be' actively engaged in practice as a fitness professional '[for] with' at least five years experience<sup>1</sup> immediately preceding their appointment <sup>1</sup>, one of whom shall be a representative of a health club,<sup>1</sup> and all of whom, except for the members first appointed, shall be '[licensed] certified' as fitness professionals pursuant to this act <sup>1</sup>; one member shall be a physician licensed in this State; one member shall be a physical therapist licensed in this State; and one member shall be a representative of the general public<sup>1</sup>. Each of the four fitness professional members first appointed shall possess <sup>1</sup>, at a minimum,<sup>1</sup> an associates degree '[or a bachelor's degree]' in '[physical education, exercise science, exercise physiology or adult fitness] any health and fitness related field of study<sup>1</sup>.

b. The Governor shall appoint each member <sup>1</sup>, other than the State executive department member,] to the committee<sup>1</sup> for terms of three years, except that of the fitness professionals first appointed, two shall serve for a term of three years, one shall serve for a term of two years and one shall serve for a term of one year <sup>1</sup>; and of the public members first appointed, one shall serve for a term of three years and one shall serve for a term of two years]<sup>1</sup>. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the '[board] committee' shall be filled for the unexpired term in the manner provided for the original appointment. No member of the '[board] committee' may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

<sup>1</sup>c. The committee shall meet at least twice a year and shall also meet upon the call of the board or Attorney General.

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d. The board, with the approval of the Attorney General, may authorize reimbursement of the members of the committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.<sup>1</sup>

OMIT SECTIONS 4 THROUGH 6 IN THEIR ENTIRETY

REPLACE SECTION 7 TO READ:

'[7.] 4.'<sup>1</sup> (New section) No person shall use the words “fitness professional,” “[licensed] certified<sup>1</sup> fitness professional,” “personal trainer,” “[licensed] certified<sup>1</sup> personal trainer,” “group fitness instructor,” or “[licensed] certified<sup>1</sup> group fitness instructor” nor provide, present, call or represent himself as able to practice fitness training, personal training or group fitness instruction unless '[licensed] certified<sup>1</sup> in accordance with the provisions of this act.

REPLACE SECTION 8 TO READ:

'[8.] 5.'<sup>1</sup> (New section) To be eligible for '[licensure] certification<sup>1</sup> as a fitness professional, an applicant shall fulfill the following requirements:

a. 'Be 18 years of age or older;

b.<sup>1</sup> Be of good moral character;

'[b.] c.'<sup>1</sup> Have successfully completed high school or its equivalent;

'[c.] d.'<sup>1</sup> (1) (a) Have successfully completed an approved course of study of not less than '[300 in-person] 200<sup>1</sup> classroom hours, 'a portion of which shall be in-person,<sup>1</sup> as prescribed by the board after consultation with the Department of Education and the Department of Labor and Workforce Development, 'and<sup>1</sup> which shall include not less than 50 hours of an '[unpaid]<sup>1</sup> internship in the presence of and under the direct supervision of '[,]<sup>1</sup> a '[licensed] certified<sup>1</sup> fitness professional '[, which internship shall be provided by the school providing the approved course of study]<sup>1</sup>; and

(b) have passed an 'in-person<sup>1</sup> examination administered or approved by the board; or

(2) possess 'at a minimum,<sup>1</sup> an associate's degree '[or a bachelor's degree]<sup>1</sup> in '[physical education, exercise science, exercise physiology or adult fitness] any health and fitness related field of study<sup>1</sup>.

REPLACE SECTION 9 TO READ:

'[9.] 6.'<sup>1</sup> (New section) The board shall issue to any person upon application a '[license] certification<sup>1</sup> to practice as a fitness professional, if the applicant meets the requirements of subsections a. '[and] ,<sup>1</sup> b. 'and c.'<sup>1</sup> of section '[8] 5'<sup>1</sup> of this act and: a. has been engaged as a personal trainer or a group fitness instructor prior to the effective date of this act; b. holds a current certificate from '[the National Board of Fitness Examiners, or any organization] an agency

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or program accredited by the National Commissioner for Certifying Agencies, or its successor organization, and which is also<sup>1</sup> approved by the board, to practice personal training; and c. <sup>1</sup>[provides proof to the board that the individual is enrolled in or has completed an approved course of study of not less than 150 in-person classroom hours, as prescribed by the board after consultation with the Department of Education and the Department of Labor and Workforce Development, which course of study shall be completed] applies and becomes certified<sup>1</sup> no later than <sup>1</sup>[18 months] two years<sup>1</sup> following the promulgation of initial regulations by the board.

OMIT SECTIONS 10 THROUGH 12 IN THEIR ENTIRETY

REPLACE SECTION 13 TO READ:

<sup>1</sup>[13.] 7.<sup>1</sup> (New section) a. The board shall by rule or regulation establish, prescribe or change the fees for <sup>1</sup>[licenses] certifications<sup>1</sup>, renewals of <sup>1</sup>[licenses] certifications<sup>1</sup>, or other services provided by the board pursuant to the provisions of this act. Licenses shall be issued for a period of <sup>1</sup>[two] three<sup>1</sup> years and be <sup>1</sup>[biennially] renewable every three years<sup>1</sup>, except that the board may, in order to stagger the expiration dates thereof, provide that those <sup>1</sup>[licenses] certificates<sup>1</sup> first issued or renewed after the effective date of this act shall expire or become void on a date fixed by the board, not sooner than six months nor later than <sup>1</sup>[29] 41<sup>1</sup> months after the date of issue.

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

<sup>1</sup>[c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and become part of the General Fund.]<sup>1</sup>

RENUMBER SECTION 14 AS SECTION 8

REPLACE SECTION 15 TO READ:

<sup>1</sup>[15.] 9.<sup>1</sup> (New section) a.<sup>1</sup> The board shall require each fitness professional, as a condition for <sup>1</sup>[biennial license] a certification<sup>1</sup> renewal pursuant to section <sup>1</sup>[13] 7<sup>1</sup> of this act, to complete <sup>1</sup>[25 credit hours of] continuing education requirements <sup>1</sup>[imposed] as approved<sup>1</sup> by the board <sup>1</sup>[pursuant to sections 16 through 18 of this act] as approved<sup>1</sup>.

b. The board shall: (1) establish standards for continuing education, including the number of hours required for certification renewal, the subject matter and content of courses of study, and the selection of instructors; (2) approve educational programs offering continuing education credits, in which one hour of instruction shall be equivalent to one credit; and (3) establish procedures for the issuance

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of credit upon satisfactory proof of the completion of any continuing education program.

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

OMIT SECTIONS 16 AND 17 IN THEIR ENTIRETY

REPLACE SECTION 18 TO READ:

'[18.] 10.<sup>1</sup> (New section) The board '[shall] may<sup>1</sup> require completion of continuing education credits on a pro rata basis for any registration periods commencing more than 12 but less than '[24] 36<sup>1</sup> months following the effective date of this act.

OMIT SECTIONS 19 AND 20 IN THEIR ENTIRETY

INSERT NEW SECTION 11 TO READ:

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

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

c. A fitness professional shall immediately refer an individual to an appropriate health care professional licensed in this State if the fitness professional has reasonable cause to believe that group fitness instruction or a personal exercise plan or program is contraindicated or a condition, injury, or symptom is present that requires services outside the scope of the fitness professional's practice.<sup>1</sup>

INSERT NEW SECTION 12 TO READ:

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

REPLACE SECTION 21 TO READ:

'[21.] 13.<sup>1</sup> Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

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2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee, the '[State Board of] Fitness Professionals Advisory Committee' and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

(cf: P.L.2009, c.41, s.13)

OMIT SECTION 22 IN ITS ENTIRETY

INSERT NEW SECTION 14 TO READ:

<sup>1</sup>14. Section 2 of P.L.1987, c.238 (C.56:8-40) is amended to read as follows:

2. Each person who sells or offers for sale health club services in this State shall register with the director on forms the director provides. The registration shall be renewed every two years. Upon

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the sale of the health club facility or a change in the majority ownership of the stock of the corporate owner, the health club facility shall reregister with the director and shall pay the registration fee. The person shall provide the full name and address of each business location where health club services are sold in the State, a statement certifying that any fitness professional, as defined in section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill), employed by the person, or who otherwise uses the health club facility to provide personal training or group fitness instruction, shall be properly certified in accordance with the “Fitness Professionals Certification Act,” P.L. , c. (C. ) (pending before the Legislature as this bill), as well as any other information regarding the ownership and operation of each health club that the director deems appropriate. The registration and renewal fees shall be established or changed by the director and shall be fixed at a level to allow for the proper administration and enforcement of this act, but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.<sup>1</sup>

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

REPLACE SECTION 23 TO READ:

'[23. This] 15. Sections 1 through 3 and 12 of this' act shall take effect 'immediately, and the remaining sections shall take effect' on the '[365th] first' day 'of the second month' next following '[enactment] the initial promulgation of final regulations by the State Board of Medical Examiners necessary to effectuate the purposes of this act'.

REPLACE SYNOPSIS TO READ:

The “Fitness Professionals Certification Act.”

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