

SENATE, No. 2164

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)

SYNOPSIS

“Fitness Professionals Licensing Act.”

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT providing for the licensing of fitness professionals and the
2 registration of certain employers, supplementing Title 45 of the
3 Revised Statutes and amending various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Fitness Professionals Licensing Act.”

10
11 2. (New section) As used in this act:

12 “Board” means the State Board of Fitness Professionals.

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

19 “Fitness professional” means a personal trainer or a group fitness
20 instructor who is licensed as a fitness professional pursuant to the
21 provisions of this act.

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

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

34
35 3. (New section) a. There is created within the Division of
36 Consumer Affairs in the Department of Law and Public Safety the
37 State Board of Fitness Professionals. The board shall consist of
38 seven members who are residents of the State, two of whom shall
39 be public members appointed pursuant to the provisions of
40 subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one of
41 whom shall be a member of the Executive Branch appointed in
42 fulfillment of the requirement of subsection c. of that section. The
43 four remaining members shall have been actively engaged in
44 practice as a fitness professional for at least five years immediately
45 preceding their appointment and all of whom, except for the

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.

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1 members first appointed, shall be licensed as fitness professionals
2 pursuant to this act. Each of the four fitness professional members
3 first appointed shall possess an associate's degree or a bachelor's
4 degree in physical education, exercise science, exercise physiology
5 or adult fitness.

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

18

19 4. (New section) Members of the board shall be compensated
20 and reimbursed for expenses and provided with office and meeting
21 facilities and personnel required for the proper conduct of the
22 board's business.

23

24 5. (New section) The board shall annually elect from among
25 its members a chairman and a vice-chairman and may appoint a
26 secretary, who need not be a member of the board. The board shall
27 meet at least twice a year and may hold additional meetings as
28 necessary to discharge its duties.

29

30 6. (New section) The board shall have the following powers
31 and duties:

32 a. Administer and enforce the provisions of this act;

33 b. Issue and renew licenses to fitness professionals pursuant to
34 the provisions of this act;

35 c. Suspend, revoke or not renew the license of a fitness
36 professional pursuant to the provisions of P.L.1978, c.73 (C.45:1-14
37 et seq.);

38 d. Establish standards for the continuing education of fitness
39 professionals;

40 e. Adopt and publish a code of ethics and standards of practice
41 for licensed fitness professionals;

42 f. Prescribe or change the charges for examinations, licensures,
43 renewals and other services performed pursuant to pursuant to
44 section13 of this act and P.L.1974, c.46 (C.45:1-3.1 et seq.); and

45 g. Maintain a record of every fitness professional licensed in
46 this State and the date and number of his license.

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1 7. (New section) No person shall use the words “fitness
2 professional,” “licensed fitness professional,” “personal trainer,”
3 “licensed personal trainer,” “group fitness instructor,” or “licensed
4 group fitness instructor” nor provide, present, call or represent
5 himself as able to practice fitness training, personal training or
6 group fitness instruction unless licensed in accordance with the
7 provisions of this act.

8

9 8. (New section) To be eligible for licensure as a fitness
10 professional, an applicant shall fulfill the following requirements:

11 a. Be of good moral character;

12 b. Have successfully completed high school or its equivalent;

13 c. (1) (a) Have successfully completed an approved course of
14 study of not less than 300 in-person classroom hours, as prescribed
15 by the board after consultation with the Department of Education
16 and the Department of Labor and Workforce Development, which
17 shall include not less than 50 hours of an unpaid internship in the
18 presence of and under the direct supervision of, a licensed fitness
19 professional, which internship shall be provided by the school
20 providing the approved course of study; and (b) have passed an
21 examination administered or approved by the board; or (2) possess
22 an associate's degree or a bachelor's degree in physical education,
23 exercise science, exercise physiology or adult fitness.

24

25 9. (New section) The board shall issue to any person upon
26 application a license to practice as a fitness professional, if the
27 applicant meets the requirements of subsections a. and b. of section
28 8 of this act and: a. has been engaged as a personal trainer or a
29 group fitness instructor prior to the effective date of this act; b.
30 holds a current certificate from the **National Board of Fitness**
31 **Examiners**, or any organization approved by the board, to practice
32 personal training; and c. provides proof to the board that the
33 individual is enrolled in or has completed an approved course of
34 study of not less than 150 in-person classroom hours, as prescribed
35 by the board after consultation with the Department of Education
36 and the Department of Labor and Workforce Development, which
37 course of study shall be completed no later than 18 months
38 following the promulgation of initial regulations by the board.

39

40 10. (New section) a. Every business engaged in providing the
41 services of fitness professionals shall register biennially with the
42 board as a condition of doing business in this State.

43 b. A written application for registration shall be made to the
44 board on the form prescribed by the board and shall contain the
45 following information:

46 (1) The name and residence or principal place of business of the
47 owner or operator of the business engaged in providing the services
48 of fitness professionals;

1 (2) The name and license number of any fitness professional
2 employed by the business or any fitness professional who uses the
3 exercise facility to provide personal training or group fitness
4 instruction as an independent contractor;

5 (3) The municipality and location of the primary place of
6 business of the business engaged in providing the services of fitness
7 professionals and the locations of all other branches of the business;
8 and

9 (4) Any other biographical information of the applicant as
10 required by the board.

11 c. Each applicant for registration and each registrant pursuant
12 to the provisions of this section shall pay to the board a fee for the
13 issuance of a two-year registration in the amount established by the
14 board in accordance with the provisions of P.L.1974, c.46 (C.45:1-
15 3.1 et seq.).

16
17 11. (New section) A professional specialty designation may be
18 added by the board to the licensed fitness professional's credentials
19 issued by the board upon demonstration to the board that the
20 applicant has met the recognized minimum standards for that
21 specialty designation as established by the board. A licensed
22 professional counselor shall not claim or advertise a counseling
23 specialty and shall not incorporate the specialty designation into his
24 professional title unless the qualifications of that specialty have
25 been met as determined by the board and the licensed fitness
26 professional's competence in the specialty as approved by the
27 board.

28
29 12. (New section) The board may suspend or revoke the
30 registration of an employer offering personal training or group
31 fitness instruction upon proof showing by a preponderance of the
32 evidence that the employer:

33 a. Has made false or misleading statements of a material nature
34 in the application for registration; or

35 b. Failed to demonstrate that each employee of the business
36 engaged in providing the services of fitness professionals and is in
37 possession of a license to practice as a fitness professional.

38
39 13. (New section) a. The board shall by rule or regulation
40 establish, prescribe or change the fees for licenses, renewals of
41 licenses or other services provided by the board pursuant to the
42 provisions of this act. Licenses shall be issued for a period of two
43 years and be biennially renewable, except that the board may, in
44 order to stagger the expiration dates thereof, provide that those
45 licenses first issued or renewed after the effective date of this act
46 shall expire or become void on a date fixed by the board, not sooner
47 than six months nor later than 29 months after the date of issue.

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

6 c. All fees and any fines imposed by the board shall be paid to
7 the board and shall be forwarded to the State Treasurer and become
8 part of the General Fund.

9
10 14. (New section) The provisions of this act shall not apply to
11 any person licensed by the State to practice: medicine and surgery;
12 physical therapy; chiropractic; or athletic training if that person is
13 acting within the scope of practice of his profession.

14
15 15. (New section) The board shall require each fitness
16 professional, as a condition for biennial license renewal pursuant to
17 section 13 of this act, to complete 25 credit hours of continuing
18 education requirements imposed by the board pursuant to sections
19 16 through 18 of this act.

20
21 16. (New section) a. The board shall:
22 (1) Establish standards for continuing education, including the
23 subject matter and content of courses of study and the selection of
24 instructors;
25 (2) Approve educational programs offering continuing education
26 credits; and
27 (3) Approve other equivalent educational programs and
28 establish procedures for the issuance of credit upon satisfactory
29 proof of the completion of these programs.

30 b. In the case of education courses and programs, each hour of
31 instruction shall be equivalent to one credit.

32
33 17. (New section) The board may, in its discretion, waive
34 requirements for continuing education on an individual basis for
35 reasons of hardship such as illness or disability, retirement of a
36 license, or other good cause.

37
38 18. (New section) The board shall require completion of
39 continuing education credits on a pro rata basis for any registration
40 periods commencing more than 12 but less than 24 months
41 following the effective date of this act.

42
43 19. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
44 as follows:

45 1. The provisions of this act shall apply to the following boards
46 and commissions: the New Jersey State Board of Accountancy, the
47 New Jersey State Board of Architects, the New Jersey State Board
48 of Cosmetology and Hairstyling, the Board of Examiners of

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1 Electrical Contractors, the New Jersey State Board of Dentistry, the
2 State Board of Mortuary Science of New Jersey, the State Board of
3 Professional Engineers and Land Surveyors, the State Board of
4 Marriage and Family Therapy Examiners, the State Board of
5 Medical Examiners, the New Jersey Board of Nursing, the New
6 Jersey State Board of Optometrists, the State Board of Examiners of
7 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
8 Pharmacy, the State Board of Professional Planners, the State Board
9 of Psychological Examiners, the State Board of Examiners of
10 Master Plumbers, the New Jersey Real Estate Commission, the
11 State Board of Court Reporting, the State Board of Veterinary
12 Medical Examiners, the Radiologic Technology Board of
13 Examiners, the Acupuncture Examining Board, the State Board of
14 Chiropractic Examiners, the State Board of Respiratory Care, the
15 State Real Estate Appraiser Board, the State Board of Social Work
16 Examiners, the State Board of Examiners of Heating, Ventilating,
17 Air Conditioning and Refrigeration Contractors, and the State
18 Board of Physical Therapy Examiners, the Orthotics and Prosthetics
19 Board of Examiners, the New Jersey Cemetery Board, the State
20 Board of Polysomnography, the New Jersey Board of Massage and
21 Bodywork Therapy , the State Board of Fitness Professionals and
22 any other entity hereafter created under Title 45 to license or
23 otherwise regulate a profession or occupation.

24 (cf: P.L.2007, c.337, s.10)

25

26 20. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read
27 as follows:

28 1. The provisions of this act shall apply to the following boards
29 and commissions: the New Jersey State Board of Accountancy, the
30 New Jersey State Board of Architects, the New Jersey State Board
31 of Cosmetology and Hairstyling, the Board of Examiners of
32 Electrical Contractors, the New Jersey State Board of Dentistry, the
33 State Board of Mortuary Science of New Jersey, the State Board of
34 Professional Engineers and Land Surveyors, the State Board of
35 Marriage and Family Therapy Examiners, the State Board of
36 Medical Examiners, the New Jersey Board of Nursing, the New
37 Jersey State Board of Optometrists, the State Board of Examiners of
38 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
39 Pharmacy, the State Board of Professional Planners, the State Board
40 of Psychological Examiners, the State Board of Examiners of
41 Master Plumbers, the State Board of Court Reporting, the State
42 Board of Veterinary Medical Examiners, the Radiologic
43 Technology Board of Examiners, the Acupuncture Examining
44 Board, the State Board of Chiropractic Examiners, the State Board
45 of Respiratory Care, the State Real Estate Appraiser Board, the New
46 Jersey Cemetery Board, the State Board of Social Work Examiners,
47 the State Board of Examiners of Heating, Ventilating, Air
48 Conditioning and Refrigeration Contractors, the State Board of

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1 Physical Therapy Examiners, the State Board of Polysomnography,
2 the Orthotics and Prosthetics Board of Examiners, the New Jersey
3 Board of Massage and Bodywork Therapy , the State Board of
4 Fitness Professionals and any other entity hereafter created under
5 Title 45 to license or otherwise regulate a profession or occupation.
6 (cf: P.L.2007, c.337, s.11)

7

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

10 2. The provisions of this act shall apply to the following boards
11 and all professions or occupations regulated by, through or with the
12 advice of those boards: the New Jersey State Board of
13 Accountancy, the New Jersey State Board of Architects, the New
14 Jersey State Board of Cosmetology and Hairstyling, the Board of
15 Examiners of Electrical Contractors, the New Jersey State Board of
16 Dentistry, the State Board of Mortuary Science of New Jersey, the
17 State Board of Professional Engineers and Land Surveyors, the
18 State Board of Marriage and Family Therapy Examiners, the State
19 Board of Medical Examiners, the New Jersey Board of Nursing, the
20 New Jersey State Board of Optometrists, the State Board of
21 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
22 the Board of Pharmacy, the State Board of Professional Planners,
23 the State Board of Psychological Examiners, the State Board of
24 Examiners of Master Plumbers, the State Board of Court Reporting,
25 the State Board of Veterinary Medical Examiners, the State Board
26 of Chiropractic Examiners, the State Board of Respiratory Care, the
27 State Real Estate Appraiser Board, the State Board of Social Work
28 Examiners, the State Board of Examiners of Heating, Ventilating,
29 Air Conditioning and Refrigeration Contractors, the State Board of
30 Physical Therapy Examiners, the State Board of Polysomnography,
31 the Professional Counselor Examiners Committee, the New Jersey
32 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,
33 the Occupational Therapy Advisory Council, the Electrologists
34 Advisory Committee, the Acupuncture Advisory Committee, the
35 Alcohol and Drug Counselor Committee, the Athletic Training
36 Advisory Committee, the Certified Psychoanalysts Advisory
37 Committee, the Fire Alarm, Burglar Alarm, and Locksmith
38 Advisory Committee, the Home Inspection Advisory Committee,
39 the Interior Design Examination and Evaluation Committee, the
40 Hearing Aid Dispensers Examining Committee, the Landscape
41 Architect Examination and Evaluation Committee, the Perfusionists
42 Advisory Committee, the Physician Assistant Advisory Committee,
43 and the Audiology and Speech-Language Pathology Advisory
44 Committee, the New Jersey Board of Massage and Bodywork
45 Therapy , the State Board of Fitness Professionals and any other
46 entity hereafter created under Title 45 to license or otherwise
47 regulate a profession or occupation.
48 (cf: P.L.2007, c.337, s.12)

1 22. The board shall adopt rules and regulations pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.) necessary to effectuate the purposes of this act.

4
5 23. This act shall take effect on the 365th day next following
6 enactment.

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8

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STATEMENT

10

11 This bill provides for the licensing of fitness professionals. It
12 establishes a seven member “State Board of Fitness Professionals”
13 in the Division of Consumer Affairs in the Department of Law and
14 Public Safety. The board shall consist of seven members who are
15 residents of the State, two of whom shall be public members and
16 one of whom shall be a member of the Executive Branch. The four
17 remaining members shall have been actively engaged in practice as
18 fitness professionals for at least five years immediately preceding
19 their appointment and all of whom, except for the members first
20 appointed, shall be licensed as fitness professionals pursuant to the
21 bill.

22 The bill defines a “fitness professional” as a personal trainer or a
23 group fitness instructor who is licensed as a fitness professional
24 pursuant to the provisions of the bill.

25 To be eligible for licensure as a fitness professional, an applicant
26 must:

- 27 • be of good moral character; and
28 • have successfully completed high school or its equivalent;
29 and
30 • have successfully completed an approved course of study of
31 not less than 300 in-person classroom hours, as prescribed
32 by the board after consultation with the Department of
33 Education and the Department of Labor and Workforce
34 Development, which shall include not less than 50 hours of
35 an unpaid internship in the presence of and under the direct
36 supervision of, a licensed fitness professional, which
37 internship shall be provided by the school providing the
38 approved course of study; and (b) have passed an
39 examination administered or approved by the board; or (2)
40 possess an associate's or bachelor's degree in physical
41 education, exercise science, exercise physiology or adult
42 fitness.

43 The bill stipulates that no person shall use the words “fitness
44 professional,” “licensed fitness professional,” “personal trainer,”
45 “licensed personal trainer,” “group fitness instructor,” or “licensed
46 group fitness instructor” nor provide, present, call or represent
47 himself as able to practice fitness training, personal training or

1 group fitness instruction unless licensed in accordance with the
2 provisions of this bill.

3 The bill provides that a person currently acting as a fitness
4 professional may receive a license from the board provided that the
5 applicant meets certain requirements and: has been engaged in
6 practice as a fitness professional for compensation prior to the
7 effective date of the bill; holds a current certificate from the
8 **National Board of Fitness Examiners**, or any organization approved
9 by the board, to practice as a fitness professional; and provides
10 proof to the board that the individual is enrolled in an approved
11 course of study of not less than 150 in-person classroom hours, as
12 prescribed by the board, which course of study shall be completed
13 no later than 18 months following the promulgation of regulations
14 by the board.

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

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

25 The bill also provides that the board shall require each fitness
26 professional, as a condition for biennial license renewal, to
27 complete 25 credit hours of continuing education requirements. In
28 furtherance of that requirement, the board shall: establish standards
29 for continuing education, including the subject matter and content
30 of courses of study and the selection of instructors; approve
31 educational programs offering continuing education credits; and
32 approve other equivalent educational programs and establish
33 procedures for the issuance of credit upon satisfactory proof of the
34 completion of these programs.