

By Senator Sachs

30-00221A-12

2012984

1 A bill to be entitled
2 An act relating to personal trainers; creating s.
3 468.7501, F.S.; defining terms; creating s. 468.751,
4 F.S.; providing for the powers and duties of the Board
5 of Athletic Training with respect to the regulation of
6 personal trainers; creating s. 468.7511, F.S.;
7 creating and providing for the duties of the Florida
8 Association of Fitness Examiners; creating s. 468.753,
9 F.S.; providing for the duties of the Department of
10 Business and Professional Regulation; creating s.
11 468.755, F.S.; requiring that the Board of Athletic
12 Training adopt rules to administer the act; creating
13 s. 468.757, F.S.; providing requirements for licensure
14 by examination for personal trainers; creating s.
15 468.759, F.S.; requiring that the department renew a
16 license under specified circumstances; requiring that
17 the board prescribe the requirements for continuing
18 education; requiring that the continuing education
19 meet certain criteria; creating s. 468.761, F.S.;
20 providing for licensure fees; creating s. 468.763,
21 F.S.; prohibiting sexual misconduct in the practice of
22 personal training; creating s. 468.765, F.S.;
23 providing penalties for violation of the act;
24 specifying acts that constitute a violation; creating
25 s. 468.767, F.S.; providing criteria for disciplinary
26 actions; creating s. 468.769, F.S.; providing for
27 exemptions; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

30-00221A-12

2012984

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31 Section 1. Section 468.7501, Florida Statutes, is created
32 to read:

33 468.7501 Definitions.—As used in ss. 468.7501-468.769, the
34 term:

35 (1) "Association" means the Florida Association of Fitness
36 Examiners.

37 (2) "Board" means the Board of Athletic Training pursuant
38 to s. 468.703.

39 (3) "Client" means a person who hires a personal trainer.

40 (4) "Department" means the Department of Business and
41 Professional Regulation.

42 (5) "Personal trainer" means a person who evaluates a
43 client's health and physical fitness; develops a personal
44 exercise plan or program, or core-induced activity, for the
45 client; and demonstrates, with or without equipment, exercises
46 designed to improve cardiovascular condition, muscular strength,
47 flexibility, and weight loss.

48 Section 2. Section 468.751, Florida Statutes, is created to
49 read:

50 468.751 Powers and duties of the board.—The board shall:

51 (1) Establish education and training standards for initial
52 licensing and continuing education for personal trainers which
53 shall be administered by the Florida Association of Fitness
54 Examiners.

55 (2) Approve educational programs leading to initial
56 licensure and offering continuing education credits.

57 (3) Approve other equivalent educational programs and
58 establish procedures for the issuance of credit upon

30-00221A-12

2012984

59 satisfactory proof of the completion of the programs.

60 (4) Establish a code of ethics and standards of practice
61 and care for personal trainers.

62 Section 3. Section 468.7511, Florida Statutes, is created
63 to read:

64 468.7511 Duties of the association.—The Florida Association
65 of Fitness Examiners is created. The association shall
66 administer:

67 (1) All educational examinations for initial licensure of
68 personal trainers;

69 (2) All educational examinations for renewal licensure of
70 personal trainers; and

71 (3) All continuing education courses for credits of
72 personal trainers.

73 Section 4. Section 468.753, Florida Statutes, is created to
74 read:

75 468.753 Duties of the department.—The department shall:

76 (1) Issue initial and renewal licenses to qualified
77 applicants.

78 (2) Revoke or suspend the license of a personal trainer
79 upon order of the board.

80 (3) Maintain a record of each personal trainer licensed in
81 the state and the date of licensure and license number.

82 (4) Maintain records of any disciplinary action taken
83 against a personal trainer.

84 Section 5. Section 468.755, Florida Statutes, is created to
85 read:

86 468.755 Rulemaking authority.—The board shall adopt rules
87 to administer the provisions of ss. 468.7501-468.769 conferring

30-00221A-12

2012984

88 duties upon it. The provisions of s. 456.011(5) apply to the
89 board's activity. The rules must include, but need not be
90 limited to, the allowable scope of practice regarding the use of
91 equipment, licensure requirements, licensure examinations,
92 continuing education requirements, fees, records, reports to be
93 filed by licensees, protocols, and any other requirements
94 necessary to regulate the practice of personal training.

95 Section 6. Section 468.757, Florida Statutes, is created to
96 read:

97 468.757 Licensure by examination; requirements.—A person
98 who is engaged in the act of personal training must be licensed
99 in this state. Application for a license must be filed with the
100 department, on a form approved by the department. The department
101 shall license an applicant who:

102 (1) Has completed the application and remitted the required
103 fees;

104 (2) Is at least 18 years of age;

105 (3) Has a high school diploma or its equivalent;

106 (4) Has obtained the required certification from a program
107 that is accredited by the National Commission for Certifying
108 Agencies or the Distance Education Training Council and that is
109 recognized and approved by the board;

110 (5) Has a current certification in cardiovascular pulmonary
111 resuscitation with an automated external defibrillator from the
112 American Red Cross or the American Heart Association, or an
113 equivalent certification as determined by the board; and

114 (6) Has passed the licensure examination administered by
115 the association.

30-00221A-12

2012984

117 The department may adopt rules to administer this section.

118 Section 7. Section 468.759, Florida Statutes, is created to
119 read:

120 468.759 Renewal of license; continuing education.-

121 (1) The department shall renew a license upon receipt of
122 the renewal application and fee if the applicant is in
123 compliance with ss. 468.7501-468.769 and rules adopted by the
124 board.

125 (2) The board shall prescribe by rule the requirements for
126 continuing education, which may not exceed 24 hours every 2
127 years. The criteria for continuing education must be approved by
128 the board and include training for certification in
129 cardiovascular pulmonary resuscitation with an automated
130 external defibrillator from the American Red Cross or the
131 American Heart Association, or an equivalent certification as
132 determined by the board.

133 Section 8. Section 468.761, Florida Statutes, is created to
134 read:

135 468.761 Fees.-

136 (1) The board shall establish by rule fees for the
137 following purposes:

138 (a) An application fee, not to exceed \$100.

139 (b) An examination fee, not to exceed \$200.

140 (c) An initial licensure fee, not to exceed \$200.

141 (d) A biennial license renewal fee, not to exceed \$200.

142 (e) An inactive license fee, not to exceed \$100.

143 (f) A delinquent application fee, not to exceed \$100.

144 (g) A license reactivation fee, not to exceed \$100.

145 (h) A voluntary inactive license fee, not to exceed \$100.

30-00221A-12

2012984

146 (2) The board shall establish fees at a level, not to
147 exceed the statutory fee cap, which is adequate to ensure the
148 continued operation of the regulatory program. The board may not
149 set or maintain the fees at a level that substantially exceeds
150 the need.

151 Section 9. Section 468.763, Florida Statutes, is created to
152 read:

153 468.763 Sexual misconduct.—The relationship between a
154 personal trainer and a client is founded on mutual trust. Sexual
155 misconduct in the practice of personal training means a
156 violation of the trainer-client relationship through which the
157 personal trainer uses the relationship to induce or attempt to
158 induce the client to engage, or to engage or attempt to engage
159 the client, in sexual activity outside the scope of the
160 practice. Sexual misconduct in the practice of personal training
161 is prohibited.

162 Section 10. Section 468.765, Florida Statutes, is created
163 to read:

164 468.765 Violations and penalties.—Each of the following
165 acts constitutes a misdemeanor of the first degree, punishable
166 as provided in s. 775.082 or s. 775.083:

167 (1) Practicing personal training for compensation without
168 holding an active license under ss. 468.7501-468.769.

169 (2) Using or attempting to use a personal trainer license
170 that has been suspended or revoked.

171 (3) Knowingly employing an unlicensed person in the
172 practice of personal training.

173 (4) Knowingly allowing an unlicensed person to use one's
174 facilities for the practice of personal training.

30-00221A-12

2012984

175 (5) Obtaining or attempting to obtain a personal trainer
176 license by misleading statements or knowing misrepresentations.

177 (6) Using the title "personal trainer" without being
178 licensed under s. 468.757.

179 Section 11. Section 468.767, Florida Statutes, is created
180 to read:

181 468.767 Disciplinary actions.—

182 (1) The following acts are grounds for denial of a license
183 or disciplinary action as specified in s. 456.072(2):

184 (a) Failing to include the name and license number of the
185 personal trainer in any advertising, including, but not limited
186 to, business cards and letterhead, related to the practice of
187 personal training. Advertising does not include clothing or
188 other novelty items.

189 (b) Committing incompetency or misconduct in the practice
190 of personal training.

191 (c) Committing fraud or deceit in the practice of personal
192 training.

193 (d) Committing gross negligence, or repeated negligence in
194 the practice of personal training.

195 (e) While practicing personal training, being unable to
196 practice personal training with reasonable skill and safety to
197 the client by reason of illness or as a result of any mental or
198 physical condition.

199 (2) The board may enter an order denying licensure or
200 imposing a penalty under s. 456.072(2) against an applicant for
201 licensure or a licensee who is found guilty of violating any
202 provision of subsection (1) or s. 456.072(1).

203 Section 12. Section 468.769, Florida Statutes, is created

30-00221A-12

2012984

204 to read:

205 468.769 Exemptions.—Sections 468.7501-468.769 do not
206 prevent or restrict:

207 (1) The professional practice of a licensee of the
208 department who is acting within the scope of that practice.

209 (2) A personal training student acting under the direct
210 supervision of a licensed personal trainer.

211 (3) A person from administering standard first aid
212 treatment.

213 (4) A person from acting within the scope of a license
214 issued under chapter 548, if the person is acting within the
215 scope of that license.

216 Section 13. This act shall take effect December 31, 2012.