

By Senator Sachs

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1 A bill to be entitled
2 An act relating to personal trainers; creating part
3 XVII of ch. 468, F.S.; creating s. 468.851, F.S.;
4 defining terms; creating s. 468.8511, F.S.; creating
5 the Board of Personal Training; providing membership
6 and terms of the board; providing the location of the
7 headquarters of the board; creating s. 468.8512, F.S.;
8 providing for the powers and duties of the board;
9 creating s. 468.8513, F.S.; creating the Florida
10 Fitness Instructors and Trainers Management
11 Corporation; providing the purpose of the management
12 corporation; authorizing the management corporation to
13 hire staff; providing that the waiver of sovereign
14 immunity for tort actions applies to the management
15 corporation; providing that the management corporation
16 is not an agency; providing the duties of the
17 management corporation; creating s. 468.8514, F.S.;
18 providing for the duties of the Department of Health;
19 creating s. 468.8515, F.S.; requiring the board to
20 adopt rules to administer the act; creating s.
21 468.8516, F.S.; providing requirements for licensure
22 by examination for personal trainers; creating s.
23 468.8517, F.S.; requiring that the department renew a
24 license under specified circumstances; requiring that
25 the management corporation prescribe the requirements
26 for continuing education; requiring that the
27 continuing education meet certain criteria; creating
28 s. 468.8518, F.S.; providing for licensure fees;
29 creating s. 468.8519, F.S.; prohibiting sexual

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30 misconduct in the practice of personal training;
31 creating s. 468.852, F.S.; providing penalties for
32 violation of the act; specifying acts that constitute
33 a violation; creating s. 468.8521, F.S.; providing
34 criteria for disciplinary actions; creating s.
35 468.8522, F.S.; providing for exemptions; providing an
36 effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Part XVII of chapter 468, Florida Statutes,
41 consisting of sections 468.851-468.8522, is created and entitled
42 "Personal Trainers."

43 Section 2. Section 468.851, Florida Statutes, is created to
44 read:

45 468.851 Definitions.—As used in this part, the term:

46 (1) "Board" means the Board of Personal Training
47 established under s. 468.8511.

48 (2) "Client" means a person who hires a personal trainer.

49 (3) "Department" means the Department of Health.

50 (4) "Management corporation" means the Florida Fitness
51 Instructors and Trainers Management Corporation.

52 (5) "Personal trainer" means a person who evaluates a
53 client's health and physical fitness; develops a personal
54 exercise plan or program, or core-induced activity, for a
55 client; or demonstrates, with or without equipment, exercises
56 designed to improve cardiovascular condition, muscular strength,
57 or flexibility or to assist a client in weight loss.

58 Section 3. Section 468.8511, Florida Statutes, is created

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59 to read:

60 468.8511 Board of Personal Training.-

61 (1) The Board of Personal Training is created within the
62 department and shall consist of nine members appointed by the
63 Governor and confirmed by the Senate.

64 (2) Five members of the board must be personal trainers who
65 are certified by the Aerobics and Fitness Association of
66 America, the National Academy of Sports Medicine, the American
67 Council on Exercise, or their successor organizations. One
68 member of the board must be a physician licensed under chapter
69 458 or chapter 459. One member of the board must be a physician
70 licensed under chapter 460. Two members of the board must be
71 consumer members, each of whom is a resident of this state who
72 has never worked as a personal trainer, who has no financial
73 interest in the practice of personal training, and who has never
74 been a licensed health care practitioner as defined in s.
75 456.001.

76 (3) For the purpose of staggering terms, the Governor shall
77 appoint the initial members of the board as follows:

78 (a) One consumer, one personal trainer, and one physician,
79 to 2-year terms.

80 (b) One consumer, one personal trainer, and one physician,
81 to 3-year terms.

82 (c) Three personal trainers to 4-year terms.

83 (4) As the terms of the members expire, the Governor shall
84 appoint successors to 4-year terms.

85 (5) The provisions of chapter 456 relating to activities of
86 the board apply.

87 (6) The board shall maintain its official headquarters in

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88 Tallahassee.

89 Section 4. Section 468.8512, Florida Statutes, is created
90 to read:

91 468.8512 Powers and duties of the board.—The board shall:

92 (1) Establish education and training standards for initial
93 licensure and renewal of licenses.

94 (2) Approve educational programs for initial licensure.

95 (3) Establish a code of ethics and standards of practice
96 and care for personal trainers.

97 Section 5. Section 468.8513, Florida Statutes, is created
98 to read:

99 468.8513 The Florida Fitness Instructors and Trainers
100 Management Corporation.—The Florida Fitness Instructors and
101 Trainers Management Corporation is created as a not-for-profit
102 corporation to provide administrative and professional services
103 to the board in accordance with chapter 456 and this part. An
104 additional not-for-profit corporation may not be created to
105 provide these services to the board.

106 (1) The management corporation may hire staff as necessary
107 to carry out its functions. Such staff members are not public
108 employees for the purposes of chapter 110 or chapter 112.

109 (2) Section 768.28 applies to the management corporation,
110 which is deemed to be a corporation primarily acting as an
111 instrumentality of the state but is not an agency as defined in
112 s. 20.03. Section 768.28 also applies to the management
113 corporation's officers, directors, and employees.

114 (3) The management corporation shall:

115 (a) Be a Florida corporation, not for profit, incorporated
116 under chapter 617.

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117 (b) Provide administrative and professional services to the
118 board in accordance with chapter 456 and this part.

119 (c) Administer and certify continuing education credits,
120 and establish and collect fees for administering and certifying
121 such credits.

122 (d) Establish procedures for the issuance of credit upon
123 satisfactory proof of completion of educational programs.

124 (e) Foster the integrity, ethics, and professionalism of
125 personal trainers for the state.

126 (f) Protect the public through the safe, proper, and
127 prudent provision of personal training services.

128 (g) Regulate continuing education courses for personal
129 trainers, and establish fees for such regulation.

130 (h) Perform all other functions necessary to effectuate
131 this subsection.

132 (4) The management corporation may:

133 (a) In the event of a capital surplus, expend sums related
134 to furthering the advancement of personal training.

135 (b) Perform any other function not prohibited by law.

136 Section 6. Section 468.8514, Florida Statutes, is created
137 to read:

138 468.8514 Duties of the department.—The department shall:

139 (1) Issue initial and renewal licenses to qualified
140 applicants.

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

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

145 (4) Maintain records of disciplinary action taken against a

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146 personal trainer.

147 Section 7. Section 468.8515, Florida Statutes, is created
148 to read:

149 468.8515 Rulemaking authority.—The board shall adopt rules
150 to administer this part. The rules must include, but need not be
151 limited to, the allowable scope of practice regarding the use of
152 equipment, licensure requirements, licensure examinations, fees,
153 records, reports to be filed by licensees, protocols, and other
154 requirements necessary to regulate the practice of personal
155 training.

156 Section 8. Section 468.8516, Florida Statutes, is created
157 to read:

158 468.8516 Licensure by examination; requirements.—A person
159 who is engaged in personal training must be licensed in this
160 state. Application for a license must be filed with the
161 department on a form approved by the department. The department
162 shall license an applicant who meets all of the following
163 requirements:

164 (1) Has completed the application and remitted the required
165 fees.

166 (2) Is at least 18 years of age.

167 (3) Has a high school diploma or its equivalent.

168 (4) Has obtained the required certification from a program
169 that is accredited by the National Commission for Certifying
170 Agencies or the Distance Education and Training Council and that
171 is recognized and approved by the board.

172 (5) Has a current certification in cardiovascular pulmonary
173 resuscitation with an automated external defibrillator from the
174 American Red Cross or the American Heart Association, or an

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175 equivalent certification as determined by the management
176 corporation.

177 (6) Has passed the licensure examination administered by
178 the board.

179 (7) Is in good standing with the board and the management
180 corporation.

181 Section 9. Section 468.8517, Florida Statutes, is created
182 to read:

183 468.8517 Renewal of license; continuing education.—

184 (1) The department shall renew a license upon receipt of
185 the renewal application and fee if the applicant is in
186 compliance with this part and department rules.

187 (2) The management corporation shall prescribe by rule the
188 requirements for continuing education, which may not exceed 24
189 hours of credit every 2 years. The criteria for continuing
190 education must include training from the American Red Cross or
191 the American Heart Association for certification in
192 cardiovascular pulmonary resuscitation with an automated
193 external defibrillator, or an equivalent certification as
194 determined by the management corporation.

195 Section 10. Section 468.8518, Florida Statutes, is created
196 to read:

197 468.8518 Fees.—

198 (1) The board shall establish by rule fees for the
199 following purposes:

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

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

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

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

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

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

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

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

208 (2) Subject to subsection (1), the board shall establish
209 fees for licensure, application, activation, and examination
210 which are adequate to ensure the continued operation of the
211 regulatory program. Fees may not be set at a level that results
212 in revenue that substantially exceeds operating costs.

213 Section 11. Section 468.8519, Florida Statutes, is created
214 to read:

215 468.8519 Sexual misconduct.—Sexual misconduct by a person
216 licensed as a personal trainer is prohibited. For purposes of
217 this section, the term "sexual misconduct" means to induce or
218 attempt to induce a client to engage, or to engage or attempt to
219 engage the client, in sexual activity.

220 Section 12. Section 468.852, Florida Statutes, is created
221 to read:

222 468.852 Violations and penalties.—A person commits a
223 misdemeanor of the first degree, punishable as provided under s.
224 775.082 or s. 775.083, if the person:

225 (1) Practices personal training for compensation without
226 holding an active license under this part.

227 (2) Uses or attempts to use a personal trainer license that
228 has been suspended or revoked.

229 (3) Knows or should have known that an individual whom the
230 person employs in the practice of personal training is
231 unlicensed.

232 (4) Knows or should have known that an unlicensed

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233 individual is using a person's facilities for the practice of
234 personal training.

235 (5) Obtains or attempts to obtain a personal trainer
236 license by misleading statements or misrepresentations.

237 (6) Uses the title "personal trainer" without being
238 licensed under this part.

239 Section 13. Section 468.8521, Florida Statutes, is created
240 to read:

241 468.8521 Disciplinary actions.-

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

244 (a) Failure to include the name and license number of the
245 personal trainer in advertising or promotional materials,
246 including, but not limited to, business cards and letterhead,
247 related to the practice of personal training. Advertising or
248 promotional materials do not include clothing or novelty items.

249 (b) Incompetency or misconduct in the practice of personal
250 training.

251 (c) Fraud or deceit in the practice of personal training.

252 (d) Gross negligence or repeated negligence in the practice
253 of personal training.

254 (e) Inability to practice personal training with reasonable
255 skill and safety by reason of illness or as a result of a mental
256 or physical condition.

257 (2) The board may enter an order under s. 456.072(2)
258 denying licensure or imposing a penalty against an applicant for
259 licensure or a licensee who is found guilty of violating
260 subsection (1) or s. 456.072(1).

261 Section 14. Section 468.8522, Florida Statutes, is created

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262 to read:

263 468.8522 Exemptions.—This part does not prevent or
264 restrict:

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

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

269 (3) A person from administering standard first aid
270 treatment.

271 (4) A person from acting within the scope of a license
272 issued under chapter 548, if the person is acting within the
273 scope of that license.

274 Section 15. This act shall take effect December 31, 2014.