

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 747 (Delegate Costa)
 Health and Government Operations

Health Occupations - Personal Trainers Act

This bill creates a State Board of Personal Trainers to regulate the practice of personal training.

Fiscal Summary

State Effect: General fund expenditures increase by \$264,400 in FY 2012 to establish the board. The board becomes operational as a special fund entity in FY 2013 and collects license fees sufficient to cover direct and indirect costs. Out-years reflect staggered license renewal. Potential minimal general fund revenue and expenditure increases due to the bill’s criminal penalties. Special fund revenues may also increase minimally due to the bill’s civil penalties. Assuming reauthorization, revenues and expenditures continue in FY 2015.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	\$0	\$0	-	-	-
SF Revenue	\$0	\$0	\$600,000	\$10,000	\$610,000
GF Expenditure	\$0	\$264,400	-	-	-
SF Expenditure	\$0	\$0	\$299,400	\$305,800	\$316,800
Net Effect	\$0	(\$264,400)	\$300,600	(\$295,800)	\$293,200

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s criminal penalty provisions.

Small Business Effect: Meaningful for personal trainers who are required to be licensed.

Analysis

Bill Summary: The State Board of Personal Trainers, consisting of eight members appointed by the Governor with advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate, is charged with regulating the practice of personal training, including licensing, adopting regulations, establishing continuing education requirements for license renewal, and investigating and disciplining licensees. The board must also submit an annual report to the Secretary of Health and Mental Hygiene and meet other documentation and public information requirements. Committee members serve staggered three-year terms, are entitled to compensation in accordance with the State budget, and travel reimbursement.

The Secretary may employ a staff for the board according to the State budget, determine appropriate job classifications and grades for all staff, and may designate one of the staff as an executive director.

On or after October 1, 2012, an individual must be licensed in order to practice personal training in the State, with some exceptions.

A “licensed personal trainer” means an individual who is licensed by the board to practice personal training. A “licensed personal trainer assistant” means an individual who is licensed by the board to practice limited personal training.

“Practice limited personal training” means to assist a licensed personal trainer under his or her supervision to administer a specified health assessment and fitness assessment, demonstrate fitness and conditioning exercises and provide specified instruction, and implement programs to motivate clients to maintain and encourage healthy behavior.

“Practice personal training” includes the activities listed above, as well as interpreting results of a physical fitness assessment, developing appropriate fitness and conditioning exercises for persons at least 13 years old who are in good health or have controlled medical conditions and have been authorized to perform independent physical activity by a licensed physician. This includes designing programs to motivate clients with controlled medical conditions and developing appropriate fitness and conditioning exercises for persons who have been authorized to perform independent physical activity by a licensed physician who have movement dysfunction, neuromuscular or orthopedic conditions, or other special needs. “Practice personal training” does not include the practice of athletic training, chiropractic, massage therapy, or physical therapy.

The bill specifies age, education, and other credentialing requirements that an applicant has to meet to be licensed. The bill prohibits a licensed personal trainer or assistant from

practicing personal training on a person with more than two risk factors as identified by the Health Status Questionnaire or any other assessment instrument.

The bill creates a State Board of Personal Trainers Fund to cover the cost of board activities. The board must set fees to issue and renew licenses so that the funds generated approximate the costs of maintaining the program.

The bill also sets specific grounds and procedures for disciplinary action against a licensee or applicant, which includes an opportunity for a hearing. Unless the board agrees to accept the surrender of a license, a licensee may not surrender the license or allow it to lapse while he or she is under investigation or while charges are pending.

An individual who violates any provision of the bill is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000 and/or imprisonment for up to one year. In addition, an individual who violates the bill is subject to a civil fine of up to \$5,000, payable to the Board of Personal Trainers Fund.

The bill subjects the new licensure program to periodic review under the Maryland Program Evaluation Act, as with other health occupations boards, and establishes a termination date of July 1, 2014, for the new program. This subjects the program to preliminary review in 2011 – before any licensing activity has taken place.

Current Law: Maryland law does not specifically address the practice of personal training. Individual health care providers who provide related services are regulated under their respective health occupations boards. Chapters 529 and 530 of 2009 require the State Board of Physicians to license and regulate athletic trainers.

Background: The National Board of Fitness Examiners (NBFEE) is a nonprofit organization that defines the scopes of practice for all fitness professionals and determines the standards of practice for various fitness professionals, including floor instructors, group exercise instructors, general personal trainers, specialists in areas such as youth and senior fitness, and medical exercise specialists. NBFEE is in the process of developing a set of standardized exams to test the knowledge, skill, and competence of fitness professionals.

NBFEE advises that no state currently requires personal trainers to be licensed.

According to the Office of the Attorney General's Consumer Protection Division, 665 businesses are registered as gyms in the State. However, some of these businesses are larger chains that may have many gyms operating in the State. Therefore, while the number of gyms in the State is not known, DHMH estimates about 1,000 would have personal trainers. Legislative Services estimates that each gym employs two personal trainers on average. Some smaller gyms may just employ one, others may employ more,

and some personal trainers likely work in more than one gym. Thus, Legislative Services estimates that there are at least 2,500 personal trainers affiliated with gyms in the State.

State Revenues: With some exceptions, personal trainers are required to be licensed on or after October 1, 2012. The bill does not authorize licensure before that date. Legislative Services assumes that each of the estimated 2,500 personal trainers affiliated with a gym and another 500 who are not affiliated with a gym become licensed in fiscal 2013 at a fee of \$200 for a two-year period. Thus, new special fund revenues in fiscal 2013 total \$600,000. In fiscal 2014, it is assumed that another 50 personal trainers are licensed, providing \$10,000 in special fund revenue. In fiscal 2015, 3,000 licensed personal trainers renew at a fee of \$200 and another 50 personal trainers are licensed, providing a total of \$610,000 in special fund revenue. To comply with the bill’s mandate that revenues approximate the cost of maintaining the new program, the board may have to adjust licensing and renewal fees if the number of personal trainer license applicants varies significantly from this estimate.

Legislative Services notes that the \$200 renewal fee, set at the same rate as the initial licensure fee, is high and out of line with renewal fees for similarly licensed health professionals. However, the fees are necessary to maintain a viable regulatory board under the bill. Although not specified in the bill, Legislative Services assumes a biennial licensure period – consistent with other health occupations boards. Alternatively, licensure could be handled on an annual basis, at a slightly lower fee (but a greater cost to licensees over a two-year period). The model below is based on health occupations boards that license a similar number of providers.

State Expenditures: General fund expenditures increase by \$264,376 in fiscal 2012, as special fund revenues are not collected or available until fiscal 2013. This accounts for the licensing requirement beginning October 1, 2012, which requires the board to begin preparing in fiscal 2012. Special fund expenditures increase by \$299,365 in fiscal 2013 as shown below, once the board begins collecting licensing revenue. This estimate includes salaries (one program manager, one administrative specialist, a part-time office secretary beginning in fiscal 2012, and a part-time investigator beginning in fiscal 2013), fringe benefits, one-time start-up costs, and ongoing operating expenses – including an indirect cost allocation required of all health occupations boards.

	GF	SF
	<u>FY 2012</u>	<u>FY 2013</u>
Total Positions	2.5	3.0
Salaries and Fringe Benefits	\$150,606	\$188,858
One-time Start-up Costs	12,150	4,295
Ongoing Operating Expenses (including indirect costs)	<u>101,620</u>	<u>106,212</u>
Total State Expenditures	\$264,376	\$299,365

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses. The estimate does not include any compensation for board members.

The revenue and expenditure estimates assume reauthorization of the board.

Additional Information

Prior Introductions: HB 814 of 2008, which would have required the State Board of Physicians to license and regulate personal trainers, was withdrawn after receiving a hearing in the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

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