

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**

House Bill 814 (Delegate Costa)  
 Health and Government Operations

**Health Occupations - Personal Trainers - Licensing**

This bill requires the Board of Physicians to license and regulate the practice of personal training.

**Fiscal Summary**

**State Effect:** No effect in FY 2009 as the board develops regulations. Special fund expenditures could increase by \$33,900 in FY 2010 to hire a part-time administrator to finalize regulations and prepare to issue licenses. Future year special fund expenditures reflect inflation. Special fund revenues could increase in FY 2011 and future years as personal trainers are licensed. Revenues should approximate the cost of maintaining the new program as required under the bill. Potential minimal increase in general fund revenues and expenditures beginning in FY 2011 due to the bill’s criminal penalty provisions.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	\$0	\$0	-	-	-
SF Revenue	0	0	-	-	-
GF Expenditure	0	0	-	-	-
SF Expenditure	0	33,900	30,900	32,400	34,000
Net Effect	\$0	(\$33,900)	(\$30,900)	(\$32,400)	(\$34,000)

*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 that would be required to be licensed. Minimal increase in expenditures for small health clubs due to the requirement that an automated external defibrillator be accessible while a licensed personal trainer provides his or her services.

## Analysis

**Bill Summary:** “Practice personal training” means the provision of the following services

- evaluation of an individual’s health and physical fitness;
- development of a personal exercise plan or program;
- demonstration of exercises or the use of equipment designed to improve the physical strength, body composition, or cardiovascular endurance; or
- provision of personal training sessions, either for a fee or as part of a service offered by a health club. It does not include practicing athletic training for an organized athletic organization, physical therapy, or chiropractic.

The bill authorizes the Board of Physicians to issue licenses, temporary licenses, and set fees to issue and renew such licenses. The fees charged have to be set so that the funds generated approximate the costs of maintaining the program.

The board has to develop regulations to carry out the program including a

- code of ethics;
- standards of care; and
- licensure requirements.

All personal trainers have to be licensed by October 1, 2010 in order to practice in the State, with some exceptions. The bill specifies age, education, and other credential requirements that an applicant has to meet in order to be licensed. In addition, the bill requires an applicant to be certified in the use of automated external defibrillator equipment, and agree to provide personal training services only at a facility where an AED is accessible while the services are being provided. Further, specific requirements for obtaining a temporary license and renewing a license are established in the bill.

The bill also sets specific grounds for disciplinary action against a licensee or applicant which includes an opportunity for a hearing. 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 or imprisonment of up to one year, or both. An unlicensed individual who represents him or herself as being licensed by the State is subject to a civil fine of up to \$5,000, payable to the Board of Physicians Fund.

The bill subjects the new licensure program to periodic review under the Maryland Program Evaluation Act, as for other health occupations boards, and aligns the program termination date with the termination dates for other allied health professionals regulated by the Board of Physicians and the board itself. This would subject the program to preliminary review in 2010 – before any licensing activity has taken place.

**Current Law:** The Board of Physicians is responsible for the licensure and discipline of physicians and regulation of certain allied health professionals – physician assistants, respiratory care practitioners, radiation oncology/therapy technologists, medical radiation technologists, nuclear medicine technologists, and polysomnographic technologists.

**Background:** Personal trainers work one-on-one with clients either in a gym or in the client's home. They help clients assess their level of physical fitness, set and reach fitness goals, demonstrate various exercises, and help clients improve their exercise techniques. They may also advise clients on how to modify their lifestyle outside of the gym to improve their fitness.

Legislation has been introduced in at least three states, including California, Nevada, and Georgia to license personal trainers. However, to date, no such legislation has been adopted. The National Board of Fitness Examiners, a nonprofit organization founded in 2003, is working to adopt an examination process with a written exam and a practical test to measure the competencies of fitness professionals. NBFEE will then register those who pass the examination and practical test.

**State Revenues:** With some exceptions, personal trainers would be required to be licensed on or after October 1, 2010. The bill does not authorize licensure before that date. The board advises that it would charge \$200 for an initial license and \$79.50 for a renewal license, with licenses being renewed biennially. However, since the bill does not specify licensure frequency, the board could renew licenses annually.

There is limited information on the number of personal trainers in the State. According to the Bureau of Labor Statistics, there were 4,560 fitness trainers and aerobics instructors in Maryland in 2006. While this number includes personal trainers, it would be difficult to estimate the number who would meet the definition under the bill. Further, this number does not include self-employed fitness trainers and aerobics instructors, which may represent from 7% to 9% of all fitness trainers and aerobics instructors nationally.

Legislative Services advises that the board will have to adjust its fees to meet the bill's requirement that the fees charged produce enough funds to cover the costs of maintaining the program and other services provided to personal fitness trainers. *For illustrative purposes only*, if the board charged a fee of \$200 per license, it would have to license approximately 325 personal trainers in fiscal 2011 to generate enough revenues to approximate the cost of the program in both fiscal 2010 and 2011, which accounts for the fact that no revenues would be generated in fiscal 2010. The board would have to adjust the fee depending on the number of personal trainer license applicants but could also renew licenses annually if necessary.

The civil and criminal penalty provisions of this bill are not expected to generate a significant amount of additional State revenues.

**State Expenditures:** No effect in fiscal 2009 as the board begins to develop regulations. Special fund expenditures could increase by an estimated \$33,892 in fiscal 2010, which accounts for the board hiring one part-time administrator to finalize regulations and prepare to issue licenses the following year. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$26,942
Operating Expenses	2,555
Start-up Costs	<u>4,395</u>
<b>Total FY 2010 Expenditures</b>	<b>\$33,892</b>

Future year expenditures reflect • a part-time salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

The criminal penalty provisions of this bill are not expected to generate a significant amount of additional State expenditures.

**Local Fiscal Effect:** The criminal penalty provisions of this bill are not expected to significantly affect local revenues or expenditures.

**Small Business Effect:** AEDs range in price from \$800 for a refurbished unit to more than \$4,000. Small health clubs that wish to employ licensed personal trainers and do not already have an AED would have to purchase one.

### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of Administrative Hearings, Department of Health and Mental Hygiene, Bureau of Labor Statistics, Department of Legislative Services

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