

Senate Bill 204

By: Senator Jones of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for the licensure of personal fitness trainers; to provide for
3 definitions; to establish the Georgia Board of Fitness Trainers and provide for its
4 composition; to provide for qualifications, terms, and vacancies of members; to provide for
5 officers; to provide for records; to provide for reimbursement of members; to provide for
6 duties of the board; to provide that no person shall provide personal fitness training without
7 a license; to provide for qualifications for personal fitness trainers; to provide for applications
8 for licensure; to provide for denial, suspension, or revocation of licenses; to provide for
9 hearings; to provide for appeals; to provide for construction and application; to provide for
10 penalties; to provide for related matters; to provide an effective date; to repeal conflicting
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
15 is amended by adding a new chapter to read as follows:

16 "CHAPTER 5A

17 43-5A-1.

18 As used in this chapter, the term:

19 (1) 'Board' means the Georgia Board of Fitness Trainers.

20 (2) 'Healthy individual' means a person without a known medical condition which
21 medical condition may be worsened or become life threatening by exercise or which
22 medical condition reasonably requires physician oversight of any exercise program. An
23 individual who has received approval from a physician to participate in a physical fitness

24 program conducted by a personal fitness trainer shall be presumed to be a healthy
25 individual for purposes of this chapter.

26 (3) 'Personal fitness trainer' means a person with specific qualifications, as set forth in
27 this chapter, who is a fitness professional that develops and implements an individualized
28 approach to exercise, including personal training and instruction in physical fitness and
29 conditioning for a healthy individual. Personal fitness trainer shall include personal
30 trainers, professional fitness trainers, and persons performing similar physical fitness
31 training, regardless of the designation used.

32 43-5A-2.

33 (a) The Georgia Board of Fitness Trainers is hereby established and shall be composed of
34 11 members. To be eligible to be a member, a person shall be a citizen of the United States
35 and a resident of this state for at least two years. Three members shall be appointed by the
36 Governor. Of the members appointed by the Governor, at least one shall be a personal
37 fitness trainer certified by a national certification organization that is accredited by the
38 National Commission for Certifying Agencies, one shall be a representative of a
39 commercial health club, and one shall be a professor from an academic institution who
40 specializes in the area of kinesiology and health. Four members shall be appointed by the
41 President of the Senate. Of the members appointed by the President of the Senate, at least
42 one shall be a representative of a community health and wellness center, one shall be a
43 representative of a corporate wellness program, and one shall be a consumer protection
44 advocate. Four members shall be appointed by the Speaker of the House. Of the members
45 appointed by the Speaker of the House, at least one shall be a member of the Committee
46 on Accreditation for the Exercise Sciences of the Commission on Accreditation of Allied
47 Health Education Programs or similarly nationally recognized program, one shall be a
48 professor of exercise sciences from an academic institution, and one shall be a physician
49 who specializes in the area of sports medicine.

50 (b) Except as provided in this subsection for initial appointments, each member shall serve
51 for a term of office of four years and until his or her replacement has been appointed and
52 qualified to serve. Members shall be appointed on January 1. All terms shall expire on
53 December 31. In making the initial appointments, the Governor shall appoint three
54 members, the President of the Senate shall appoint one member, and the Speaker of the
55 House of Representatives shall appoint one member, each of whom shall serve for a term
56 beginning on January 1, 2012, and expiring on December 31, 2013. In making initial
57 appointments, the President of the Senate and the Speaker of the House of Representatives
58 shall each appoint three members for a term beginning on January 1, 2012, and expiring
59 on December 31, 2015. Incumbent members may be reappointed for subsequent terms.

60 (c) Each appointee to the board shall qualify by taking an oath of office within 15 days
61 from the date of appointment. On presentation of the oath, the Secretary of State shall
62 issue commissions to appointees as evidence of their authority to act as members of the
63 board.

64 (d) In the event of death, resignation, or removal of any member, the vacancy of the
65 unexpired term shall be filled by the appointing authority in the same manner as other
66 appointments.

67 (e) Members may be removed from office for misfeasance or malfeasance in office. Any
68 member committing a felony shall be automatically removed. Members may be removed
69 for failure to attend three or more regularly scheduled meetings or other neglect of service,
70 unless for just cause the member is excused by the appointing authority.

71 (f) Membership on the board shall not constitute service of public office, and no member
72 shall be disqualified from holding public office by reason of his or her membership.

73 43-5A-3.

74 (a) The board shall elect a chairperson and a vice chairperson from among its members for
75 a term of one year and may appoint such committees as it considers necessary to carry out
76 its duties.

77 (b) The board shall meet at least twice each year. Additional meetings may be held on the
78 call of the chairperson or at the written request of any three members of the board.

79 43-5A-4.

80 The board shall appoint a secretary to the board who shall keep a record of the board's
81 proceedings in a book maintained for that purpose.

82 43-5A-5.

83 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
84 Section 43-1-2.

85 43-5A-6.

86 (a) The board shall be authorized to promulgate rules and regulations consistent with this
87 chapter which are necessary for the performance of its duties.

88 (b) The board shall prescribe application forms for license applications.

89 (c) The board shall establish guidelines for personal fitness trainers in this state and
90 prepare and conduct an examination for applicants for a license, which may include, but
91 not be limited to:

92 (1) Adequate knowledge of and skill in risk factor and health status identification, fitness
93 appraisal, and exercise preparation;

94 (2) Demonstrated ability to incorporate suitable and innovative activities that will
95 improve an individual's functional capacity; and

96 (3) Demonstrated ability to effectively educate and communicate with individuals
97 regarding lifestyle modification.

98 (d) The board shall adopt an official seal and the form of a license certificate of suitable
99 design.

100 43-5A-7.

101 No person shall hold himself or herself out as a personal fitness trainer or perform, for
102 compensation, any of the activities of a personal fitness trainer without first obtaining a
103 license under this chapter.

104 43-5A-8.

105 (a) An applicant for a personal fitness trainer's license shall meet minimum qualifications
106 and training requirements as established by the board.

107 (b) The board may grant a personal fitness trainer's license without examination to any
108 qualified applicant who holds a certification from a national certification organization that
109 is accredited by the National Commission for Certifying Agencies.

110 (c) An applicant shall be a United States citizen or lawful resident of this country.

111 (d) An applicant shall be at least 18 years of age and possess a valid Georgia driver's
112 license.

113 43-5A-9.

114 (a) An applicant for a personal fitness trainer's license shall submit an application to the
115 board on forms prescribed by the board and shall submit the examination fee and
116 application fee required by this chapter or the board. As a part of that application process,
117 the applicant shall be required to undergo a criminal history background check prescribed
118 by and under such terms and conditions set by the board.

119 (b) The applicant shall be entitled to a personal fitness trainer's license if he or she
120 possesses the qualifications enumerated in this chapter, pays the required license and
121 application fee, and has not committed an act which constitutes grounds for denial of a
122 license under Code Section 43-5A-10.

123 (c) Licenses issued by the board shall expire biennially. As a condition of license renewal,
124 the board shall be authorized to require licensees to complete continuing education courses
125 approved by the board.

126 43-5A-10.

127 The board may refuse to issue a license to an applicant or may suspend or revoke the
128 license of any licensee if he or she has:

129 (1) Committed a felony or misdemeanor involving moral turpitude, a record of
130 conviction being conclusive evidence of the commission of the offense;

131 (2) Secured the license by fraud or deceit;

132 (3) Is currently under warrant for arrest;

133 (4) Is in substantial violation of a valid court order for child support payments; or

134 (5) Violated or conspired to violate or failed to abide by the law, this chapter, or rules
135 and regulations adopted by the board as provided for in this chapter.

136 43-5A-11.

137 (a) Any person whose application for a license is denied or whose license is canceled,
138 suspended, or revoked shall be entitled to a hearing before the board upon submission of
139 a written request to the board. Those procedures set forth in the rules and regulations of
140 the board shall apply to the hearing before the board.

141 (b) Proceedings for the cancellation, revocation, or suspension of a license shall be
142 commenced by filing charges with the board in writing and under oath. The charges may
143 be made by any person or persons.

144 (c) The board shall fix a time and place for a hearing and shall cause a written copy of the
145 charges or reason for denial of a license, together with a notice of the time and place fixed
146 for the hearing, to be served on the applicant requesting the hearing or licensee against
147 whom the charges have been filed at least 20 days prior to the date set for the hearing.
148 Service of charges and notice of hearing may be given by certified mail or statutory
149 overnight delivery, return receipt requested, to the last known address of the applicant or
150 licensee.

151 (d) At the hearing, the applicant or licensee shall have the right to appear either personally
152 or by counsel, or both, to produce witnesses, to have subpoenas issued by the board, and
153 to cross-examine the opposing or adverse witnesses.

154 (e) The board shall not be bound by strict rules of procedure or by the laws of evidence in
155 the conduct of the proceedings, but the determination shall be founded upon sufficient legal
156 evidence to sustain it. Witnesses shall give testimony under oath and shall be subject to
157 punishment for false swearing by petition filed with the superior court of the county where
158 the hearing is held. A record of the proceedings and testimony shall be maintained.

159 (f) The board shall determine the charges on their merits and enter an order in a permanent
160 record setting forth the findings of fact and law and the action taken. A copy of the order

161 of the board shall be mailed to the applicant or licensee at his or her last known address by
162 certified mail or statutory overnight delivery, return receipt requested.

163 (g) On application, the board may reissue a license to a person whose license has been
164 canceled or revoked, but the application shall not be made prior to the expiration of a
165 period of 24 months after the order of cancellation or revocation has become final; and the
166 application shall be made in the manner and form as the board may require.

167 43-5A-12.

168 (a) A person whose application for a license has been refused or whose license has been
169 canceled, revoked, or suspended by the board may make an appeal, within 30 days after the
170 order is entered, to any court of competent jurisdiction in the Superior Court of Fulton
171 County or in the applicant or licensee's county of residence.

172 (b) A case reviewed under this Code section shall be confined to a review of the
173 administrative record. The decision of the board shall be reversed only if it is found to be
174 clearly erroneous. Appeal from the judgment of the superior court lies as in other civil
175 cases.

176 43-5A-13.

177 (a) Nothing in this chapter shall be construed to authorize the practice of medicine by any
178 person not licensed by the Georgia Composite Medical Board.

179 (b) No provision of this chapter shall be construed so as to limit or prevent any person duly
180 licensed under the laws of this state to practice the profession for which he or she was
181 licensed.

182 43-5-14.

183 Any person who violates Code Section 43-5A-7 shall be guilty of practicing as a personal
184 fitness trainer without a license and shall be punished as for a misdemeanor of a high and
185 aggravated nature by the imposition of a fine not to exceed \$5,000.00, or confinement for
186 not more than 12 months, or both."

187 **SECTION 2.**

188 This Act shall become effective on March 31, 2012; provided, however, that provisions
189 related to the establishment of the Georgia Board of Fitness Trainers in Code Sections
190 43-5A-1, 43-5A-2, 43-5A-3, 43-5A-4, 43-5A-5, and 43-5A-6 shall become effective on
191 December 31, 2011.

192

SECTION 3.

193 All laws and parts of laws in conflict with this Act are repealed.