

**STATE OF WEST VIRGINIA**  
**SUNRISE REPORT**  
**ON THE**  
**LICENSING OF EXERCISE PHYSIOLOGISTS**  
**Licensing Board for Exercise Physiologists is Not**  
**Recommended**

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**INTRODUCTION**

A group of professional exercise physiologists practicing in the State of West Virginia have submitted an application to the Joint Committee on Government Organization proposing licensure of their profession. According to information provided by the applicants, there are approximately 166 practicing exercise physiologists in the state. These professionals are employed in hospitals, clinics, gyms, and fitness centers. If approved, licensure would protect the occupation by making it illegal for anyone to engage in the occupation without a license approved by the governing board of the occupation.

The Performance Evaluation and Research Division of the Legislative Auditor's Office is required under WVC §30-1A-3 to analyze and evaluate the application of professional and occupational groups who seek to be regulated. The analysis must be submitted to the Joint Standing Committee on Government Organization no later than the first day of July following the date the proposal is submitted to the Joint Committee.

The report submitted to the Joint Standing Committee shall include evaluation and analysis as to :

- Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependant upon tenuous argument;
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- Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and
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- Whether the public can be adequately protected by other means in a more cost-effective manner.
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**Definition of an Exercise Physiologist**

Exercise physiologists in the state are employed in hospital cardiac rehabilitation units, clinics, gyms, and fitness centers. Table 1 displays the work locations of the exercise physiologists throughout West Virginia. In a clinical setting, an exercise physiologist reviews patient medical records, collects data concerning health history relevant to desired outcomes of the rehabilitative process and completes a health risk profile. The physiologist will develop, prescribe, and monitor exercise programs for the patient's rehabilitative goals and serve as a motivator for achieving these goals. In addition, the exercise physiologist may attempt to educate the patient on health related issues, and behavior change counseling. A full description of exercise physiologist tasks is located in

## Appendix A.

**Table 1****Exercise Physiologists' Work Locations**

<b>Location</b>	<b>Number Employed</b>
Hospital Cardiac Rehab. Facility	53
Hospital Wellness Center	19
Personal Trainer	12
College Instructor	14
Student	5
Fitness Center Employee	19
Fitness Center Manager	4
Physical Therapy Clinic	6
Unknown	34

According to data provided by the applicants, the role of the Exercise Physiologist is:

- To improve the performance of activities of daily living.
- 
- Increase the potential for physical, social, and economic independence.
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- Reduce the risks for premature development or reoccurrence of chronic disease.
- 
- Promote behavioral patterns consistent with health maintenance and enhancement.
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In a fitness center or health club setting, the role of a physiologist is slightly different from that in a clinical setting. The physiologist in a fitness setting usually deals with a healthier individual who wishes to improve overall health and physical fitness. These physiologists usually act as personal trainers and assist on designing a fitness program catered to the client's needs, and assisting in motivating the person to achieve their goals.

### **Application for Board of Exercise Physiologists**

The applicants have applied for a licensing board overseeing the profession of exercise physiologists. According to draft legislation (2000R297 shown in Appendix B) and provided to the committee, the board would be made up of five members appointed by the Governor. Three appointed members of the board would be currently practicing exercise physiologists, and shall have been practicing in the profession for at least five years prior to appointment. The draft legislation prescribes that the board would have the following duties:

- Establish qualifications for practicing exercise physiologists;
- Approve, withhold, deny or restrict applications, and issue licenses to qualified applicants;
- Establish guidelines and procedures for suspension, revocation, and renewal of licenses;
- Maintain a roster of licensed exercise physiologists;
- Establish and publish minimum standards of the practice of exercise physiology.

The proposed board has also set minimum requirements for licensing individuals as exercise physiologists. New licensees will be required to: have a graduate degree in exercise science curriculum with emphasis in exercise physiology from an accredited school approved by the board; and pass an examination provided by the board. Initially, plans are for a \$150 application fee, with an annual renewal rate of \$35. Current practicing exercise physiologists will not be required to meet the education requirements but will be required to pay the licensing fees to continue practicing as physiologists within the state. Marshall University and West Virginia University currently offer graduate degrees in Exercise Science.

### **The Applicant's Argument for Regulation**

The applicant feels that with West Virginia's aging population, and with baby boomers aging, the need for exercise physiologists will probably increase. Currently, anyone can be called a personal trainer and have no credentials, and the applicant feels that licensure would protect the communities in which the physiologist is employed. The applicant also feels that the board could attempt to educate the public on some health issues. In addition, in a clinical setting exercise physiologists are the only professional staff not licensed, and may not have as much access to patient records as other professional staff because of the lack of licensure.

In their application for licensure the group states:

*Licensure is needed in order to help us perform our jobs and deliver services to patients and clients in a timely and professional manner. In the hospital setting, for example, the ability to write in the patient's chart and to take orders from doctors has been questioned due to the fact that there is not regulatory body overseeing our profession. Licensure will help clarify the identity of Exercise Physiologists. Regulation of our profession through licensure can lead to the standardization of education programs in West Virginia state colleges and universities. Licensure will further ensure the production of qualified individuals in the field of Exercise Physiology.*

Question #12 on the licensure application states, "*Within the usual practice of this occupation, document the physical, emotional, or financial harm to clients from failure to provide appropriate service or erroneous or incompetent service.*" The applicant responded to this statement that:

*Exercise Physiologists working with high risk individuals must be appropriately educated and trained to recognize heart arrhythmias, hemodynamic changes and other inappropriate responses to exercise. The failure to do this may result in the injury or death of the patient. Exercise Physiologists working with day to day fitness operations must be trained on physiological to exercise, as well as properly trained techniques on cardiovascular and resistance equipment. Failure to do so may result in injury such as soft tissue injuries, head injuries, fractures, paralysis or death.*

### **Regulation by other states**

Currently, the State of Louisiana is the only state that licenses its exercise physiologists. The draft legislation is modeled after Louisiana's regulation although West Virginia's licensing fees would be higher. According to documentation provided by the applicant, groups in the States of Maryland and California have submitted

legislation designed to establish licensure, while groups in Indiana and Kentucky are also attempting to obtain licensure as well.

## Legislative Auditor's Findings

### Finding 1: The number of practicing Exercise Physiologists in the State of West Virginia is too low to support an independent licensing board.

Currently, there are approximately 166 practicing exercise physiologists within the State of West Virginia. The Legislative Auditor feels that this number is too low to fund an independent board. The board has submitted draft legislation that proposes an initial licensing fee of \$150, annual renewal of \$35, and replacement for a lost license of \$25. Initially if all 166 exercise physiologists in the state apply for licensure then first year revenues would approximate \$24,900. Yearly renewal fees would bring in approximately \$5,810 a year. These estimates do not include those who choose not to have their license renewed and new applicants after the first year. Table 2 below displays the five year estimate of monies collected by the board.

**Table 2**  
**Approximate Five Year Revenue**

Year	Fee Estimate	Revenue
1 <sup>st</sup> Year	166 new applicants @ \$150	\$24,900
2 <sup>nd</sup> Year	166 renewals @ \$35	\$5,810
3 <sup>rd</sup> Year	166 renewals @ \$35	\$5,810
4 <sup>th</sup> Year	166 renewals @ \$35	\$5,810
5 <sup>th</sup> Year	166 renewals @ \$35	\$5,810
	<b>Estimated Total Revenue in Five Years</b>	<b>\$48,140</b>

As shown in the table, in five years the estimated revenues of a licensing board would only bring in \$48,140 for an annual average revenue of \$9,628. These revenues would not be enough to cover a secretary, much less pay for office space rent, equipment, supplies, and board members per diem salaries and expenses. **Operation of a board would require a legislative appropriation and state taxpayer funding.** Members of the group applying for licensure have suggested affiliating itself with an active board to help offset costs, but have not made arrangements or approval with another board. The Legislative Auditor estimates that even affiliating itself with another board would require some legislative appropriation, since after the first year, annual revenues would only approximate \$5810.

### Finding 2: Since Exercise Physiologists are employed by clinics, hospitals, and fitness centers, the employer is already responsible and liable for protection of the public.

One of the analysis requirements within the West Virginia Sunrise Legislation (B30-1A-3) is to determine *whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public...*

The applicant feels that an exercise physiologist could do harm to a patient/client by prescribing incorrect exercise programs although **there are no cited cases in West Virginia.** Thus, the applicant is **assuming that there is a potential risk to the public.** It is the Legislative Auditor's opinion that lack of regulation does not clearly harm or endanger the health, safety or welfare of the public. In addition, the Legislative Auditor also feels that the employers of exercise physiologists are responsible and liable for the work of the physiologists. It is the responsibility of the employer to check the credentials of an exercise physiologist and to set standards as

to who they hire. For example, two of the larger hospitals in the state - Charleston Area Medical Center (CAMC) and Cabell Huntington Hospital - require physiologists to have master's degrees. The liability would lie with the employers to check the educational backgrounds of their potential employees. In a clinical setting, the patient has been referred to an exercise physiologist by a physician. The patient's rehabilitation and progress is continuously monitored by the referring physician. In addition, the clinical setting also has registered nurses present during the patient's exercise program. **So in essence the public's health and safety or patient's health and safety in this case are already protected by a layer of professionals monitoring the performance and clients of the exercise physiologist.** Thus a licensing board while it may standardize educational requirements, would not protect the health and safety of the public. The employer is already liable for the public's safety and for monitoring the performance of its physiologists.

In a gym setting, clients are usually part of the "healthy population" and wish to increase their strength or maximize their health. The exercise physiologist's role is that of a personal trainer. The Legislative Auditor feels that the employer is liable for the performance of its physiologists in this setting. The employer is responsible for deciding the criteria, such as educational requirements and work experience, by which they would hire a new physiologist, and responsible for monitoring the work of the physiologist. Thus, again the public already has a layer of protection in the employer. In contrast, an owner of a gym may choose to hire a personal trainer who is not educated in exercise sciences. Thus this board would have limited effect in a gym setting. In addition, since a licensing board prevents individuals from practicing as "exercise physiologists", a person educated in that profession could still maintain their employment, but just reclassify themselves as a "personal trainer".

## Conclusion

The Legislative Auditor finds that there is not a need for an additional board to license the profession of exercise physiologists. In the Sunrise legislation, the Legislative Auditor is responsible for determining whether the public is at risk without licensure of the profession. This is not so in the case of exercise physiologists. The Legislative Auditor finds that the public is already protected by employers, and by other professionals monitoring the work of the physiologists. By evidence provided by the applicant, employers at hospitals and clinics are restricting this profession to protect clients. The applicant's main argument for licensure is to help "clarify the identity of exercise physiologists." This is not the purpose of the Sunrise process. Instead, the Sunrise process is to provide the public with protection.

In addition, the number of practicing exercise physiologists in the state is not enough to support an independent board. Currently, there are 166 physiologists in the state that would only bring in estimated total revenues of \$48,140 over the next five years which is not enough to cover the costs of staff, member expenses, rent, and office supplies.

## Recommendation 1

*The Performance Evaluation and Research Division recommends that a separate licensing board for Exercise Physiologists should not be created.*

## Recommendation 2

*If the Legislature chooses to create an Exercise Physiologist licensing board, then the board should be required to affiliate itself with an existing board in order to offset costs.*