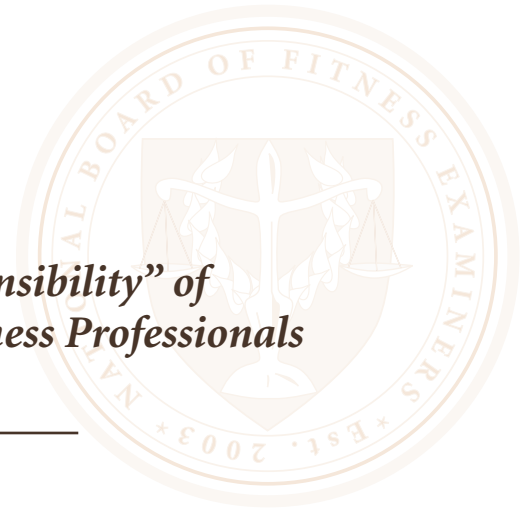


## *Comments on the “Legal Defensibility” of Certification Examinations for Fitness Professionals*



Over the past several months, much information has been disseminated by some within the fitness industry dealing with the so-called “legal defensibility” of certification exams. While the qualifications of fitness professionals, including personal trainers, is of utmost importance to the industry, some of the information regarding legal defensibility is inaccurate.

Certifications for fitness professionals are offered by a number of organizations in the fitness industry. The certification process attempts to improve the qualifications of those individuals providing personal training and fitness services to the public. It was hoped by some that the certification process would provide presumptive evidence of competence in litigation against professionals and the facilities by whom they are employed. In this context, the concept of legal defensibility is misapplied. Legal defensibility does not relate to legal liability for negligence that causes injury or damages. It relates to the process or test used to measure competence and grant a certification. It is also unlikely that a court would accept certification as presumptive evidence of competence; although, certification would probably be admitted as evidence beneficial to the fitness professional and/or his employer.

Legal defensibility relates to the nature of the certification process. Merely paying a membership fee and being issued a certificate does not measure competence. A valid testing process measures competence. Also, certifications that are not based on any measurement of the individual’s education or training – even if there was a test administered – are neither comprehensive nor authoritative. The public could not be assured of the professional competencies of such “certified” individuals. As a result, some organizations began to call for accreditation of the certification organizations, including their procedures and testing processes. However, accreditation of the various certification processes of many different certification-granting organizations did little to solve the need within the fitness industry for a national solution.



As a consequence, the National Board of Fitness Examiners (NBFEE) was formed to create and provide national board examinations to test truly and accurately the competencies of personal trainers and fitness professionals.

Standards for educational and psychological testing are offered by the American Psychological Association, the American Educational Research Association and the National Council on Measurement and Education. These standards promote the legal defensibility of certification tests. The standards involve a determination as to whether the test is valid, reliable and fair. According to J. Robert Sapp, Ed.D.; “A test is generally challenged in one or more of three areas: validity, reliability and/or fairness. In this context, validity is defined by an assessment that the test measures what it is supposed to test. Reliability is reflected by the consistent performance of a test. For example, if there are multiple forms on the same test, reliable test forms would give the same candidate the same score across multiple forms. Fairness means that the test only measures the testing objectives and does not favor any population, class or demographic group.”

Legal defensibility assures that a particular testing or certification process does not have an adverse impact upon any group and does not violate individual rights. Legal challenges to such tests may arise when there is an attempt to discriminate in the certification or testing process based upon race, color, national origin, sex, religion or even protected disability. Also, to be valid, such testing must relate to reasonable job performance criteria.

In conclusion, legal defensibility of the certification or testing process for fitness professionals has nothing to do with the ability of such professionals to withstand negligence or malpractice claims arising from the fitness services they provide. While certification or successful completion of a certification examination might be considered admissible evidence of competency in the defense of a negligence action, legal defensibility refers to the validity of the certification examination process.

