



GOVERNOR'S OFFICE OF CONSUMER PROTECTION

September 19, 2013

An in depth discussion of the required statutory provisions, part 2

We are continuing our in depth discussion of the required statutory provisions for gym membership contracts. Another required provision states that members have the option of cancelling their membership within 30 days of discovering that there has been a **substantial** change in services or programs available since the time they joined the gym. The FBPA requires that the provision is displayed in each contract in at least ten point bold face type.

When it comes to the interpretation of what is or is not regarded as a substantial change in service, the FBPA is the final authority on the matter, and gives an example of a substantial change as:

A health spa which previously limited its membership to members of one sex should become coeducational or one which was previously coeducational should become limited to members of one sex.

Other examples are:

- 1) A gym closes and moves to another location that is significantly smaller in square footage than the location at which the consumer's initial contract was signed.
- 2) A gym no longer offers all of the classes, amenities and services that were offered at the time in which a consumer's initial contract was signed.
- 3) A gym which offered 24 hour access closes and transfers memberships to another location within ten miles that does not offer 24 hour access to members.

On the other hand, a substantial change in services does not include:

- 1) A gym no longer offers towels in the locker rooms.
- 2) A gym's termination of a particular personal training contractor.
- 3) A gym's smoothie bar has closed or has changed its prices.

Cancellations for substantial changes must be submitted to the gym in writing and must be made within 30 days from the time the member knew of or should have known of the change. Every member that cancels under this provision is entitled to a prorated refund if the membership was paid in advance. If the member had a Month to Month or a long term membership, the contract would then be cancelled with no refund due to the member. As always, prorated refunds are calculated by dividing the total cost of the membership by the total number of months under the membership, and refunding the monthly cost for any months or fractions of months remaining under the membership. If you receive a request for cancellation under this provision and have questions regarding the merit of a consumer's request, please feel free to contact us.