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Electronic Pre-sale Contract Templates Issues

Recently, we conducted an unscheduled inspection of a gym that was approved by OCP to pre-sell memberships. The gym had previously submitted a pre-sale account form, a health spa information form for pre-sales and a copy of a contract that contained all of the required statutory provisions. However, it appears that at some time during the pre-sale, the gym had opted to use an electronic contract template for all new memberships. Therefore, we requested a printed copy of the gym's electronic pre-sale contract. In our examination of the pre-sale contract template, we found that the printed version only contained the member name, address, term of the agreement, and amount paid by the member. There were no references whatsoever to any of the required statutory provisions in the printed contract.

As was emphasized in our podcast of October 2011, electronic pre-sale contract templates must contain all statutory provisions and cannot be significantly different from the membership contract that is submitted to this Office for approval. This means that electronic pre-sale contract templates cannot be abbreviated versions of the paper contract. Further be aware, that the health spa provisions of the Fair Business Practices Act requires that every gym contract, whether in electronic form or hard copy, must contain all of the required statutory provisions and be approved by this Office. Electronic contracts that do not contain the required statutory provisions are not in compliance and are not enforceable under state law.

We have also observed that some electronic pre-sale contract templates do not populate the seven-day cancellation date as is required. In the event that your gym's electronic pre-sale contract template does not automatically populate a specific date for the seven-day cancellation field, you are allowed to say, "Seven business days after opening." Remember, there should be no blank spaces on the contract at any time. As always, if there are any questions or concerns regarding these or other matters, please do not hesitate to contact us.

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