



GOVERNOR'S OFFICE OF CONSUMER PROTECTION

September 24, 2014

Consumer recourse under unapproved gym contracts

When a consumer files a complaint with this Office, our complaint resolution protocol requires that we obtain a copy of the consumer's service agreement or membership contract. If our review of the complaint reveals that the contract in use at the gym had never been approved by this Office, the contract will be deemed to be unenforceable under State law. Consequently, we will take the position that the complaint should be resolved by cancellation of the contract.

Gym owners should also be aware that in addition to any action which may be taken by the Administrator, and in addition to any recovery of a consumer in a private action, any consumer who has entered into a contract which has not been approved by the Administrator shall be entitled to recover as an additional penalty an amount equal to any amount paid plus any amount claimed owing on the contract.

Contracts that have been approved by OCP and have been changed, modified or revised must be re-submitted to this Office for approval. This is because the Fair Business Practices Act states that gyms must:

...submit all contract changes thereafter for approval prior to entering or offering to enter into that contract with a consumer.

And for each revised contract, a facility must obtain and have on file with this Agency a statement signed by the Administrator, or his designee, certifying that a copy of the contract is on file with the Administrator, and is in compliance with the Fair Business Practices Act. Always remember, OCP stands ready to assist you, your employees or representatives should they have any questions or concerns on these or other matters.

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