



GOVERNOR'S OFFICE OF CONSUMER PROTECTION

March 16, 2015

Pre-sales and the Seven Day Cancellation Date

In a previous podcast, we discussed Georgia code section 10-1-393.2(e) which provides consumers with the right to cancel their gym memberships within seven business days of signing their membership contracts. The statute states, in part, that:

(e) The health spa member shall have the right to cancel the contract within seven business days after the date of the signing of the contract by notifying the seller in writing of such intent and by either mailing the notice before 12:00 Midnight of the seventh business day after the date of the signing of the contract or by hand delivering the notice of cancellation to the health spa before 12:00 Midnight of the seventh business day following the date of the signing of the contract.

Please be aware, this cancellation language only applies to membership contracts that are signed at the time a gym is fully operational and available for use. Fully operational and available for use means that all of the facilities, equipment, or services which are promised at the time of entering into the membership contract are operational and available for use at that time.

A different code section provides the cancellation requirements for contracts entered into during a pre-sale and that code section is 10-1-393.2(l). The statute specifically states:

(H) The member shall have until seven business days following the date upon which the health spa becomes fully operational and available for use to cancel the contract and receive a full refund of any payments and the cancellation of any evidence of indebtedness, provided that the member shall be liable for the fair market value of any services actually received, which in no event shall exceed \$50.00.

This means a pre-sale member has seven days from the date the gym actually opens for business, being fully operational and available for use, to cancel a membership contract. Although we have addressed this provision in the past, we still receive numerous questions regarding pre-sale contracts and the seven day cancellation date that should be included in a pre-sale contract. Many owners are uncertain about the exact cancellation date that should be written in a pre-sale contract, at the time of signing, since unexpected delays can affect a gym's scheduled opening date. As was emphasized in the past, gym owners who are uncertain about a scheduled opening date can include in their pre-sale contracts that the contract may be canceled "**seven business days following the date the facility is fully operational and available for use.**" This information may be written on paper contracts or populated electronically for online contracts. However, once a pre-sale ends and the gym is fully operational and available for use, pre-sale members must be contacted and notified of the specific date by which their contracts may be cancelled.

Gym owners should also be aware that the seven day cancellation date is a statutory requirement for all gym contracts and must never be left blank or incomplete. In fact, the gym is required to

fill in the seven day cancellation information “before the consumer signs the contract.” A gym contract that does not contain the seven day cancellation date is void and unenforceable under state law.

As always should there be any questions on this matter, please feel free to contact us.

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