



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### Health Clubs

January 2011

It is that time of year again, when we re-dedicate ourselves to good habits, like exercising regularly. If you are considering joining a health club, this newsletter provides you the information you need to know your rights under California's consumer protection laws.

#### *HEALTH STUDIO SERVICES LAW:*

California has a Health Studio Services Law which regulates any business that enters into contracts with members of the public offering the use by an individual of facilities for exercising, body building or other physical skills. Thus, it regulates the traditional health clubs as well as specialty exercise clubs like boxing or martial arts clubs.

No health club contract can require payment by the customer of more than \$4,400 (not including initial membership fees, interest, or finance charges).

#### *CONTRACT REQUIREMENTS:*

The main provision of the law is that all contracts entered into by health clubs with their customers must be in writing and a copy of the contract must be provided to the customer at the time he/she signs it. The contract must also contain the following provisions:

- The period of time the customer is to make payments cannot be longer than the period of time the customer has use of the facilities.
- The length of the term of the contract (set forth in large type). The term cannot be longer than 3 years.
- A notice that the customer/his estate may cancel the contract if he is unable to receive the services due to death or disability or if the customer moves further than 25 miles from the club and is unable to transfer the contract to a comparable club.

#### *FIVE DAY RIGHT TO RESCIND:*

A customer of a health club purchasing services totaling less than \$1500, has five business days after signing the contract to cancel the agreement and receive a pro rata refund within 10 days of the health club receiving the notice. The club must refund the amount of the contract minus the initial membership fee and charges for the period the club was available for use before the cancellation.

If the contract is for more than \$1500 but less than \$2000, the customer has a 20 day right to rescind the contract. If the contract is for more between \$2,001 and \$2,500, the rescission period is 30 days. If the contract exceeds \$2,501, the customer has 45 business days to rescind the contract.

The amount of the contract is determined by including all fees, including initial membership fees, but does not include interest or finance charges.

The contract must inform the customer in boldface type of the

right to rescind and the person and address that the rescission is to be sent to.

If a health club fails to provide a customer with this notice or provides an incorrect notice, the right to rescind continues until the health club complies with the requirement to correctly notify the consumer in writing of the right to rescind.

#### *CONTRACTS FOR FUTURE CLUB:*

If the customer enters into a contract to join a club that is not yet open, the contract must provide that the services will begin within 6 months after the contract date. If the health club fails to open on time, the customer may cancel and receive a refund.

The health club must put any money it receives for a future health club in a trust account and cannot withdraw that money until five business days after the club has opened, except to make refunds to anyone who cancels his/her contract.

A customer of a future health club has the same right to rescind in 5 business days and must be given a full refund of all money paid.

#### *CONSUMER TIPS:*

You should take the following additional steps to check out a health club before joining:

- Visit the club several times to observe how crowded it is during the times you may want to use it.
- Find out if there have been consumer complaints filed with the San Diego Better Business Bureau at [www.sandiego.bbb.org](http://www.sandiego.bbb.org)

- Speak to others who use the club to determine if they are satisfied with the service.
- Research how long the club has been in business and how long it has been under the current ownership. The BBB may be able to provide this information.
- Search for the business name on line and see if there are any webpages available for people who have done business with the club to describe their satisfaction with the business.
- Make sure the contract you sign complies with the above requirements.
- Ask about the age of any equipment and how often equipment is replaced.
- Ask about the training and credentials of any instructors and verify that the information you have received is correct.
- Make sure the premises are clean and there aren't any obvious health hazards.
- Don't let anyone rush you to make a purchasing decision.
- If you agree to have monthly charges automatically deducted from your checking account, be sure you understand all the details of that agreement. Ask questions of the club and your bank if you don't understand the agreement.
- If you respond to an advertisement and the club does not honor the advertised offer, walk away. All businesses must advertise truthfully.

If you observe that a health club operator in the City of San Diego is

violating the law, report your findings to the San Diego City Attorney's Office at the number below.

If you enter into a contract with a health club and the club fails to comply with the Health Studio Services Law, you have the right to sue the club for three times the amount of your damages, plus attorney's fees. You can file an action in Small Claims Court on your own behalf. Attorneys cannot appear in Small Claims Court. This remedy is in addition to remedies available if the City Attorney's Office files a case against the business for violating the law.

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**San Diego  
City Attorney's Office  
Consumer and Environmental  
Protection Unit  
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Newsletter written by Assistant City Attorney Tricia Pummill

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Sources: Civil Code sections 1812.80-1812.98 and Business and Professions Code section 17500.

The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.