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Electronic Contracts, Part 3

OCP has learned that there are gyms using electronic contracts, but are not allowing consumers to review the contract and its provisions prior to signing the signature pad. Be advised that such practice is an unfair and deceptive business practice, since consumers need to be able to review the terms and provisions of each electronic contract prior to signing the contract, whether by electronic signature pad or any other means. Gyms that violate the FBPA will be subject to an enforcement action.

Gym owners should understand that OCP does not oppose the integration of technology in gyms. However, gym owners must ensure that the means they use to integrate technology into their businesses doesn't inadvertently contradict or circumvent the health spa provisions of the FBPA. As you know, when gyms use paper health spa contracts, the FBPA requires that consumers be allowed to review the costs associated with the contract, the terms of the contract, the cancellation provisions, and rules of the facility *prior* to signing the contract. Only after this review should consumers be permitted to sign the contract. Consumers should then be given a copy of the signed contract. With regard to electronic health spa contracts, the same or similar procedures must be followed. We do understand that the way in which these procedures are presented to consumers may vary according to the various electronic contract templates that are used by gyms. But whatever software or electronic contract template is used, gym owners must ensure that the methods they use don't violate the health spa provisions of the FBPA. This means that any software or non-compliant electronic contract templates will need to be changed to ensure that the gym's procedures comply with the FPBA.

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