



**STATE OF GEORGIA
GOVERNOR'S OFFICE OF CONSUMER PROTECTION**

2 MARTIN LUTHER KING, JR. DRIVE, SE, SUITE 356
ATLANTA, GEORGIA 30334-4600

404-656-3790
www.consumer.ga.gov

Nathan Deal
GOVERNOR

John Sours
ADMINISTRATOR

August 23, 2011

We have seen an increase in marketing campaigns within gyms. These campaigns are often designed to give away specific prizes to new members of a gym. It is the understanding of this office that gyms may retain the services of various third party organizations to administer their respective marketing campaigns. While it is ok for a gym to utilize the services of a third party organization to administer their marketing campaign, it is important that gym owners understand what their responsibilities are under the health spa provisions of the FBPA.

For example, a gym may utilize a third party organization to administer a "Biggest Loser" campaign and, during that campaign, new memberships are executed on the gym's contracts as a result of the marketing of the campaign. If a consumer executes a gym contract through the "Biggest Loser" campaign and requests cancellation of their membership within seven business days, the gym must ensure that such a cancellation request is honored as prescribed by the health spa provisions of the FBPA. Remember, any representation that is made or obligation that is created by a third party organization on behalf of a gym, which the third party fails to honor, must be satisfied by the sponsoring gym.

In another example, if a consumer executes a gym contract in response to a marketing campaign which offered special services that are outside of the gym's regular services, the consumer may request cancellation of the contract in the event that those special services are terminated and are no longer available to the consumer. In such an instance, a gym may not hold a consumer to the contract if the special services have been terminated.

In addition, we have seen a number of direct mail marketing campaigns which involve various gym promotions. Please be aware that the FBPA has specific provisions that govern promotions in this state. That information will be covered in detail in the next podcast.

FOLLOW ME ON 

- For concise Health Spa compliance updates and information, please follow us on twitter at www.twitter.com/GOCA2.