



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 28, 2012

Key Fobs, Access Cards and Enrollment Fees

In the next series of podcasts, we will address questions that we have been asked by gym owners and other concerned parties. One frequently asked question pertains to whether gyms can legally advertise that they do not charge an enrollment fee to new members. Please be aware that the FBPA does not prohibit a gym from advertising that there are no enrollment fees at their facility. However, gyms may not state that there are no enrollment fees and then charge consumers fees that, in effect, are the same thing under a different name. For example, if a gym advertises in a direct mail flyer campaign that there are "No Enrollment Fees" for new members, the gym would not be allowed to charge an "Initiation Fee" or "Administrative Fee" to consumers. In sum, aside from the actual membership rates, this office will consider it an unfair and deceptive practice to require consumers to pay any other fees to initiate services.

There have also been some inquiries about whether gyms are allowed to charge new members a small processing fee for access cards and key fobs. While the FBPA does not prevent a gym from charging new members for an access card or key fob, OCP's position is that costs associated with an access card or key fob are enrollment-related costs, because members cannot use the facilities without them. Therefore, facilities that charge new members for an access card or key fob would not be able to advertise that they do not charge an enrollment fee. Of course, an exception applies when a gym has advertised that there are no enrollment fees but has to provide a replacement access card or key fob to an existing member. In such an instance, the gym at its sole discretion may provide a replacement at little or no cost to the member.

Remember, it is a basic principle of truth in advertising law that it is deceptive to secure contact with consumers through false advertising methods, even if the true facts are made known to the consumers before they purchase any goods or services. OCP takes these issues seriously. If the agency has reason to believe that a gym is engaging in this type of advertising and sales practice, proper steps will be taken to ensure that consumers are not being deceived.

Should there be any questions on these or other matters, please contact us at (404) 656-3789.



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