



## GOVERNOR'S OFFICE OF CONSUMER PROTECTION

April 29, 2014

### **Invalid Transfer of Gym Memberships**

If your organization is contacted by a third party individual or organization who wishes to sell their gym membership drafts to you and to transfer their memberships to your facility, there are a number of important guidelines to remember.

The most significant question in every proposal to transfer gym memberships is whether the facility to which memberships are to be transferred is a substantially similar facility that is located within ten miles of the gym that is closing its doors. According to the FBPA, a substantially similar facility is one in which the size, equipment and services available to the member are equal to or exceed the size, equipment and services available at the health spa location in which the contract was entered.

A health spa is not considered substantially similar if:

The original facility was limited to use by members of one sex and the alternate facility is used by members of both sexes. The FBPA also states that a gym is not considered substantially similar if the size, facilities, equipment and services available to the member at the alternate location are not substantially equal to or do not exceed the size, equipment and services available to the member at the health spa location in which the contract was entered into. So, if a gym that offers tanning, hydro-massage, group classes, and locker rooms to its members closes its doors and the memberships are sold and transferred to a gym that does not offer any of these services, the transfer would not be valid under State Law.

Gym owners should also determine whether the facility which has offered to sell their membership draft is in compliance with State Law and had been approved by OCP. If a facility does not have documentation from this Office showing that their contracts had been approved, those contracts cannot be transferred even if both facilities are substantially similar in size, equipment and services. This is because the non-compliant facility's contracts are unenforceable or void and could not be drafted or serviced by any other facility. Likewise, membership drafts cannot be transferred from a facility that has been approved by OCP to one that has not been approved.

Gym owners and corporate offices are encouraged to exercise great caution when considering the transfer of gym memberships from one facility to another. Please remember that OCP stands ready to provide guidance should there be any questions.

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