

1-1 By: Hinojosa S.B. No. 1835
 1-2 (In the Senate - Filed March 8, 2023; March 20, 2023, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 5, 2023, reported favorably by the following vote: Yeas 11,
 1-5 Nays 0; April 5, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to certain contract and notice requirements for the
 1-22 cancellation of a health spa membership.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 702.304, Occupations Code, is amended to
 1-25 read as follows:

1-26 Sec. 702.304. CANCELLATION AND REFUND NOTICE. (a) Except
 1-27 as provided by Subsection (b), a contract must state in at least
 1-28 10-point type that is boldfaced, capitalized, underlined, or
 1-29 otherwise conspicuously distinguished from surrounding written
 1-30 material:

1-31 (1) "NOTICE TO PURCHASER: DO NOT SIGN THIS CONTRACT
 1-32 UNTIL YOU READ IT OR IF IT CONTAINS BLANK SPACES."

1-33 (2) "IF YOU DECIDE YOU DO NOT WISH TO REMAIN A MEMBER
 1-34 OF THIS HEALTH SPA, YOU MAY CANCEL THIS CONTRACT BY PROVIDING NOTICE
 1-35 [~~MAILING~~] TO THE HEALTH SPA BY MIDNIGHT OF THE THIRD BUSINESS DAY
 1-36 AFTER THE DAY YOU SIGN THIS CONTRACT [~~A NOTICE~~] STATING YOUR DESIRE
 1-37 TO CANCEL THIS CONTRACT. [~~THE WRITTEN NOTICE MUST BE MAILED BY~~
 1-38 ~~CERTIFIED MAIL TO THE FOLLOWING ADDRESS:~~

1-39 [~~(Address of the health spa home office).~~]"

1-40 (3) "IF AFTER MIDNIGHT OF THE THIRD BUSINESS DAY AFTER
 1-41 THE DAY YOU SIGN THIS CONTRACT YOU DECIDE YOU DO NOT WISH TO REMAIN A
 1-42 MEMBER OF THIS HEALTH SPA, YOU MAY CANCEL THIS CONTRACT BY PROVIDING
 1-43 30 DAYS' NOTICE TO THE HEALTH SPA."

1-44 (4) [~~(3)~~] "IF THE HEALTH SPA GOES OUT OF BUSINESS AND
 1-45 DOES NOT PROVIDE FACILITIES WITHIN 10 MILES OF THE FACILITY IN WHICH
 1-46 YOU ARE ENROLLED OR IF THE HEALTH SPA MOVES MORE THAN 10 MILES FROM
 1-47 THE FACILITY IN WHICH YOU ARE ENROLLED, YOU MAY:

1-48 (A) CANCEL THIS CONTRACT BY PROVIDING [~~MAILING BY~~
 1-49 ~~CERTIFIED MAIL A WRITTEN~~] NOTICE STATING YOUR DESIRE TO CANCEL THIS
 1-50 CONTRACT, ACCOMPANIED BY PROOF OF PAYMENT ON THE CONTRACT TO THE
 1-51 HEALTH SPA [~~AT THE FOLLOWING ADDRESS:~~

1-52 [~~(Address of the health spa home office).~~]; AND

1-53 (B) FILE A CLAIM FOR A REFUND OF YOUR UNUSED
 1-54 MEMBERSHIP FEES AGAINST THE BOND OR OTHER SECURITY POSTED BY THE
 1-55 HEALTH SPA WITH THE TEXAS SECRETARY OF STATE. TO MAKE A CLAIM
 1-56 AGAINST THE SECURITY PROVIDE A COPY OF YOUR CONTRACT TOGETHER WITH
 1-57 PROOF OF PAYMENTS MADE ON THE CONTRACT TO THE TEXAS SECRETARY OF
 1-58 STATE. THE REQUIRED CLAIM INFORMATION MUST BE RECEIVED BY THE
 1-59 SECRETARY OF STATE NOT LATER THAN THE 90TH DAY AFTER THE DATE NOTICE
 1-60 OF THE CLOSURE OR RELOCATION IS FIRST POSTED ON THE SECRETARY OF
 1-61 STATE'S INTERNET WEBSITE."

2-1 (5) "IF YOU MOVE YOUR RESIDENCE MORE THAN 25 MILES FROM
 2-2 A HEALTH SPA OPERATED BY (insert: the name of the health spa
 2-3 registration holder), YOU MAY CANCEL THIS CONTRACT BY PROVIDING
 2-4 NOTICE TO THE HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS
 2-5 CONTRACT."

2-6 (6) "IF ON A DOCTOR'S ORDER, YOU CANNOT PHYSICALLY
 2-7 RECEIVE THE SERVICES PROVIDED BY THE HEALTH SPA FOR A PERIOD OF MORE
 2-8 THAN THREE MONTHS BECAUSE OF A SIGNIFICANT PHYSICAL DISABILITY, YOU
 2-9 MAY CANCEL THIS CONTRACT BY PROVIDING NOTICE TO THE HEALTH SPA."

2-10 (7) ~~[(4)]~~ "IF YOU DIE OR BECOME TOTALLY AND
 2-11 PERMANENTLY DISABLED AFTER THE DATE THIS CONTRACT TAKES EFFECT, YOU
 2-12 OR YOUR ESTATE MAY CANCEL THIS CONTRACT AND RECEIVE A PARTIAL REFUND
 2-13 OF YOUR UNUSED MEMBERSHIP FEE BY PROVIDING ~~[MAILING A]~~ NOTICE TO THE
 2-14 HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE HEALTH
 2-15 SPA MAY REQUIRE PROOF OF DISABILITY OR DEATH. ~~[THE WRITTEN NOTICE~~
 2-16 ~~MUST BE MAILED BY CERTIFIED MAIL TO THE FOLLOWING ADDRESS:~~

2-17 ~~[(Address of the health spa home office).]"~~

2-18 (b) A health spa operator is required to include the
 2-19 statement under Subsection (a)(4)(B) ~~[(a)(3)(B)]~~ in a contract only
 2-20 if the operator is required to post security with the secretary of
 2-21 state under Subchapter D.

2-22 (c) A health spa operator shall include a statement in a
 2-23 contract that any notice provided by a member to cancel a contract
 2-24 may be given to a health spa:

2-25 (1) in person, by e-mail, by certified mail, or by
 2-26 telephone; and

2-27 (2) for a contract entered into through an Internet
 2-28 website, through an Internet website.

2-29 SECTION 2. Section 702.307, Occupations Code, is amended to
 2-30 read as follows:

2-31 Sec. 702.307. CANCELLATION OF CONTRACT FOR FULL REFUND.

2-32 (a) A member may cancel a contract and receive a full refund of the
 2-33 payments made under the contract by providing to the certificate
 2-34 holder for the health spa ~~[sending]~~, not later than midnight of the
 2-35 third business day after the contract date, ~~[written]~~ notice of
 2-36 cancellation, accompanied by proof of payment made under the
 2-37 contract ~~[, by certified mail to the certificate holder's home~~
 2-38 ~~office]~~.

2-39 (b) A certificate holder who receives notice under
 2-40 Subsection (a) shall refund the payments made under the contract
 2-41 not later than 48 hours ~~[the 30th day]~~ after the date notice is
 2-42 received.

2-43 SECTION 3. Section 702.308, Occupations Code, is amended by
 2-44 amending Subsections (a), (b), and (c) and adding Subsections (a-1)
 2-45 and (a-2) to read as follows:

2-46 (a) A member may cancel a contract and receive a refund of
 2-47 unearned payments made under the contract by providing to the
 2-48 certificate holder for the health spa 30 days' notice accompanied
 2-49 by proof of payment made under the contract.

2-50 (a-1) A member may cancel a contract and receive a refund of
 2-51 unearned payments made under the contract by providing ~~[sending~~
 2-52 ~~written]~~ notice of cancellation, accompanied by proof of payment
 2-53 made under the contract, ~~[by certified mail]~~ to the certificate
 2-54 holder for the health spa ~~[holder's home office]~~ if the certificate
 2-55 holder:

2-56 (1) closes the health spa and fails to provide
 2-57 alternative facilities not more than 10 miles from the location of
 2-58 the health spa;

2-59 (2) relocates the health spa more than 10 miles from
 2-60 its location preceding the relocation; or

2-61 (3) fails to provide advertised services.

2-62 (a-2) A member may cancel a contract and receive a refund of
 2-63 unearned payments made under the contract by providing notice of
 2-64 cancellation, accompanied by proof of payment made under the
 2-65 contract to the certificate holder for the health spa, if the
 2-66 member:

2-67 (1) moves the member's residence more than 25 miles
 2-68 from any health spa operated by the seller; or

2-69 (2) on a doctor's order, cannot physically receive the

3-1 services provided by the health spa for more than three months
3-2 because of a significant physical disability.

3-3 (b) A member who dies or becomes totally and permanently
3-4 disabled after the date a contract is entered into, or the member's
3-5 estate, may cancel the contract and receive a refund of the unearned
3-6 payments made under the contract by providing to the certificate
3-7 holder for the health spa [~~sending written~~] notice of cancellation
3-8 [~~by certified mail to the certificate holder's home office~~]. The
3-9 certificate holder may require the member, or the member's estate,
3-10 to provide reasonable proof of the member's death or disability.

3-11 (c) A certificate holder who receives notice under
3-12 Subsection (a), (a-1), (a-2), or (b) shall refund the unearned
3-13 payments made under the contract to the member, or the member's
3-14 estate, as appropriate, not later than 48 hours [~~that the 30th day~~]
3-15 after the date notice is received.

3-16 SECTION 4. This Act takes effect September 1, 2023.

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