

By: Hinojosa

S.B. No. 1835

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

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

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

5 (A) CANCEL THIS CONTRACT BY PROVIDING [~~MAILING BY~~
6 ~~CERTIFIED MAIL A WRITTEN~~] NOTICE STATING YOUR DESIRE TO CANCEL THIS
7 CONTRACT, ACCOMPANIED BY PROOF OF PAYMENT ON THE CONTRACT TO THE
8 HEALTH SPA [~~AT THE FOLLOWING ADDRESS:~~

9 [~~(Address of the health spa home office)~~]; AND

10 (B) FILE A CLAIM FOR A REFUND OF YOUR UNUSED
11 MEMBERSHIP FEES AGAINST THE BOND OR OTHER SECURITY POSTED BY THE
12 HEALTH SPA WITH THE TEXAS SECRETARY OF STATE. TO MAKE A CLAIM
13 AGAINST THE SECURITY PROVIDE A COPY OF YOUR CONTRACT TOGETHER WITH
14 PROOF OF PAYMENTS MADE ON THE CONTRACT TO THE TEXAS SECRETARY OF
15 STATE. THE REQUIRED CLAIM INFORMATION MUST BE RECEIVED BY THE
16 SECRETARY OF STATE NOT LATER THAN THE 90TH DAY AFTER THE DATE NOTICE
17 OF THE CLOSURE OR RELOCATION IS FIRST POSTED ON THE SECRETARY OF
18 STATE'S INTERNET WEBSITE."

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

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

1 (7) [~~(4)~~] "IF YOU DIE OR BECOME TOTALLY AND
2 PERMANENTLY DISABLED AFTER THE DATE THIS CONTRACT TAKES EFFECT, YOU
3 OR YOUR ESTATE MAY CANCEL THIS CONTRACT AND RECEIVE A PARTIAL REFUND
4 OF YOUR UNUSED MEMBERSHIP FEE BY PROVIDING [~~MAILING A~~] NOTICE TO THE
5 HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE HEALTH
6 SPA MAY REQUIRE PROOF OF DISABILITY OR DEATH. [~~THE WRITTEN NOTICE~~
7 ~~MUST BE MAILED BY CERTIFIED MAIL TO THE FOLLOWING ADDRESS:~~

8 [~~(Address of the health spa home office).~~]"

9 (b) A health spa operator is required to include the
10 statement under Subsection (a)(4)(B) [~~(a)(3)(B)~~] in a contract only
11 if the operator is required to post security with the secretary of
12 state under Subchapter D.

13 (c) A health spa operator shall include a statement in a
14 contract that any notice provided by a member to cancel a contract
15 may be given to a health spa:

16 (1) in person, by e-mail, by certified mail, or by
17 telephone; and

18 (2) for a contract entered into through an Internet
19 website, through an Internet website.

20 SECTION 2. Section 702.307, Occupations Code, is amended to
21 read as follows:

22 Sec. 702.307. CANCELLATION OF CONTRACT FOR FULL REFUND.

23 (a) A member may cancel a contract and receive a full refund of the
24 payments made under the contract by providing to the certificate
25 holder for the health spa [~~sending~~], not later than midnight of the
26 third business day after the contract date, [~~written~~] notice of
27 cancellation, accompanied by proof of payment made under the

1 contract [~~, by certified mail to the certificate holder's home~~
2 ~~office~~].

3 (b) A certificate holder who receives notice under
4 Subsection (a) shall refund the payments made under the contract
5 not later than 48 hours [~~the 30th day~~] after the date notice is
6 received.

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

10 (a) A member may cancel a contract and receive a refund of
11 unearned payments made under the contract by providing to the
12 certificate holder for the health spa 30 days' notice accompanied
13 by proof of payment made under the contract.

14 (a-1) A member may cancel a contract and receive a refund of
15 unearned payments made under the contract by providing [~~sending~~
16 ~~written~~] notice of cancellation, accompanied by proof of payment
17 made under the contract, [~~by certified mail~~] to the certificate
18 holder for the health spa [~~holder's home office~~] if the certificate
19 holder:

20 (1) closes the health spa and fails to provide
21 alternative facilities not more than 10 miles from the location of
22 the health spa;

23 (2) relocates the health spa more than 10 miles from
24 its location preceding the relocation; or

25 (3) fails to provide advertised services.

26 (a-2) A member may cancel a contract and receive a refund of
27 unearned payments made under the contract by providing notice of

1 cancellation, accompanied by proof of payment made under the
2 contract to the certificate holder for the health spa, if the
3 member:

4 (1) moves the member's residence more than 25 miles
5 from any health spa operated by the seller; or

6 (2) on a doctor's order, cannot physically receive the
7 services provided by the health spa for more than three months
8 because of a significant physical disability.

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

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

22 SECTION 4. This Act takes effect September 1, 2023.