

AMENDED IN SENATE JULY 9, 2001
AMENDED IN ASSEMBLY APRIL 30, 2001
AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 357

Introduced by Assembly Member Correa

February 16, 2001

An act to amend Section 1812.86 of the Civil Code, relating to health studio contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 357, as amended, Correa. Health studio contracts.

Existing law prohibits a contract for health studio services from requiring payment by the person receiving the services for the use of the facilities of a total amount in excess of \$1,000.

This bill would instead provide that a contract for health studio services may not require payment by the person receiving the services in an amount exceeding ~~\$3,000~~ \$2,500. *This bill would exclude from that limit the cost of subsequently purchased optional services.* The bill would create exceptions to ~~this \$2,000~~ *the \$2,500* limit when consumers can cancel their contracts for health studio services and receive a refund for their unused portion and the health studio ~~has been in business for more than 3 years or~~ maintains a bond issued by a surety company in a specified amount, depending on how long the health studio has been in business. *This bill also would require health studios that do not exceed the \$2,500 limit, but have been in business less than 3 years, to establish a bond and provide membership refunds, as specified.* The bill

would require a copy of the bond to be filed with the Secretary of State ~~and. This bill also would, in specified circumstances, require a an owner of a health studio to provide a signed declaration signed under penalty of perjury by the owner of the health studio in specified circumstances regarding the health studio's income and would make a willful misrepresentation in the declaration misdemeanor.~~

Because this bill would ~~expand the scope of the crime of perjury create a new crime,~~ it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1812.86 of the Civil Code is amended
2 to read:

3 1812.86. (a) Except as provided in subdivision (c), no
4 contract for health studio services shall require payment by the
5 person receiving the services for the use of the facilities of a total
6 amount in excess of ~~the amount specified in subdivision (b).~~

7 ~~(b) The limit specified in subdivision (a) shall, on January 1,~~
8 ~~2002, be three thousand dollars (\$3,000), exclusive two thousand~~
9 ~~five hundred dollars (\$2,500), exclusive of interest or finance~~
10 ~~charges. This limitation may not include subsequent payments~~
11 ~~during the term of the contract for subsequently arranged optional~~
12 ~~services.~~

13 (b) A health studio that has been doing business under the same
14 management and control in this state for less than three years with
15 contracts requiring payment within the limit specified in
16 subdivision (a) shall do both of the following:

17 (1) Maintain a bond of one hundred thousand dollars
18 (\$100,000) for the first year, and in the remaining two years a bond
19 in an amount equal to 25 percent of the health studio's gross
20 income from the health studio's business in this state during the
21 health studio's last fiscal year.



1 (2) *Establish during the entire time it does business in this state,*
2 *the right of the consumer to cancel the contract at any time during*
3 *the term of the contract in which case the consumer shall be liable*
4 *only for that portion of the total contract payment which has been*
5 *used by the consumer. The used portion of the contract shall be*
6 *calculated at the nondiscounted rate for that type of contract and*
7 *shall exclude initiation fees. The payment for the portion of the*
8 *contract that was not used by the consumer shall be returned to the*
9 *consumer by the health studio. The right of cancellation set forth*
10 *by this section is in addition to the cancellation rights set forth in*
11 *Section 1812.85.*

12 (A) *If the health studio, in good faith offers contracts for a*
13 *period of one year or more and the percentage of term contracts*
14 *sold by the health studio for that period exceeds 20 percent of all*
15 *term contracts sold by the health studio within the previous*
16 *one-year period, the charges for service, in determining the*
17 *appropriate pro rata rebate for the longer contract shall be the*
18 *periodic charge made for the shorter contract.*

19 (B) *If the health studio charges an initiation fee, and that*
20 *initiation fee is less than half of the consumer's obligation during*
21 *the period of the contract, that initiation fee shall not be included*
22 *in determining the pro rata refund.*

23 (c) A contract for health studio services may exceed the amount
24 specified in subdivision (b) if both of the following conditions are
25 satisfied:

26 (1) The contract establishes the right of the consumer to cancel
27 the contract at any time during the term of the contract, in which
28 case the consumer shall be liable only for that portion of the total
29 contract payment which has been used by the consumer. The used
30 portion of the contract shall be calculated at the nondiscounted rate
31 for that type of contract and shall exclude initiation fees. The
32 payment for the portion of the contract that was not used by the
33 consumer shall be returned to the consumer by the health studio.
34 ~~However, the contract may provide that a consumer who cancels~~
35 ~~for a reason other than specified in subdivision (a) or (b) of Section~~
36 ~~1812.89 is liable for not less than one thousand dollars (\$1,000).~~
37 The right of cancellation set forth by this section is in addition to
38 the cancellation rights set forth in Section 1812.85.



1 ~~(2) The health studio has been doing business in this state for~~
 2 ~~more than three years under the same management and control, or~~
 3 ~~the health studio doing business in this state for three years or less~~

4 (A) *If the health studio, in good faith offers contracts for a*
 5 *period of one year or more and the percentage of term contracts*
 6 *sold by the health studio for that period exceeds 20 percent of all*
 7 *term contracts sold by the health studio within the previous*
 8 *one-year period, the charges for service, in determining the*
 9 *appropriate pro rata rebate for a longer contract shall be the*
 10 *periodic charge made for the shorter contract.*

11 (B) *If the health studio charges an initiation fee, and that*
 12 *initiation fee is less than half of the consumer’s obligation during*
 13 *the period of the contract, that initiation fee shall not be included*
 14 *in determining the pro rata refund.*

15 (2) *The health studio establishes and maintains a bond issued*
 16 *by a surety company admitted to do business in this state.*

17 (A) *The principal sum of the bond for a health studio that has*
 18 *been doing business under the same management and control in*
 19 *this state for less than three years shall be 25 percent of the health*
 20 *studio’s gross income from the health studio’s business in this state*
 21 *during the health studio’s last fiscal year, except that the principal*
 22 *sum of the bond shall not be less than one four hundred thousand*
 23 *dollars (~~\$100,000~~) (\$400,000) if the health studio has been in*
 24 *business for less than one fiscal year or its gross income in its last*
 25 *fiscal year was less than four hundred thousand dollars*
 26 *(\$400,000).*

27 ~~(B) The bond required by this paragraph shall be in favor of,~~
 28 ~~and payable to, the people of the State of California and shall be~~
 29 ~~for the benefit of a person or persons damaged by a violation of this~~
 30 ~~title.~~

31 ~~(C)~~

32 (B) *The principal sum of a bond for a health studio that has*
 33 *been doing business under the same management and control in*
 34 *this state for three years or more shall be 20 percent of the value*
 35 *of contracts over two thousand five hundred dollars (\$2,500) the*
 36 *health studio has with its members in California, with a maximum*
 37 *bond requirement of three hundred thousand dollars (\$300,000).*

38 (d) *A copy of the any bond required by this paragraph section*
 39 *shall be filed with the Secretary of State. If the principal sum of the*
 40 *bond is less than five hundred thousand dollars (\$500,000), the*



1 health studio shall also file with the Secretary of State a declaration
 2 signed ~~under penalty of perjury~~ by the owner of the health studio
 3 stating the health studio’s gross income from the health studio’s
 4 business in this state during the last fiscal year. The information
 5 contained in the declaration shall not be subject to public
 6 inspection. This declaration shall not be required of the owner of
 7 the health studio for the first fiscal year of doing business in this
 8 state.

9 ~~(D)~~—*An owner who declares as true any material pursuant to*
 10 *this paragraph which he or she knows to be false is guilty of a*
 11 *misdemeanor.*

12 (1) The Secretary of State shall enforce the provisions of this
 13 title that govern the filing and maintenance of bonds.

14 ~~(E)~~—

15 (2) The Secretary of State shall charge and collect a filing fee
 16 not to exceed the cost of filing the bond.

17 ~~(d)~~—

18 (3) Every health studio that posts a bond pursuant to ~~paragraph~~
 19 ~~(2) of subdivision (e)~~ *this section* shall include in every contract for
 20 health studio services a statement that the health studio is bonded
 21 and that a copy of the bond may be obtained by writing to the office
 22 of the Secretary of State.

23 SEC. 2. No reimbursement is required by this act pursuant to
 24 Section 6 of Article XIII B of the California Constitution because
 25 the only costs that may be incurred by a local agency or school
 26 district will be incurred because this act creates a new crime or
 27 infraction, eliminates a crime or infraction, or changes the penalty
 28 for a crime or infraction, within the meaning of Section 17556 of
 29 the Government Code, or changes the definition of a crime within
 30 the meaning of Section 6 of Article XIII B of the California
 31 Constitution.

