



## WISCONSIN

### 100.177 Fitness center and weight reduction center contracts.

(1) In this section:

(ag) "Center" means a fitness center or a weight reduction center.

(am) "Conspicuous" has the meaning designated under s. [421.301 \(8\)](#).

(b) "Contract for center services" or "contract" means any of the following:

1. A contract for membership in any center.

2. A contract for instruction, training, assistance or use of facilities primarily for physical exercise, in weight control, or in figure development.

3. A contract for instruction, supervision or counseling for diet or weight loss or maintenance.

(c) "Fitness center" means an establishment that, for profit, provides as its primary purpose services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development, including but not limited to a fitness center, studio, salon or club. "Fitness center" does not include an organization solely offering training or facilities in an individual sport or a weight reduction center.

(d) "Operating day" means any calendar day on which the buyer may inspect and use the facilities and services of the center during a period of at least 8 hours.

(e) "Weight reduction center" means an establishment that provides as its primary purpose instruction, supervision or counseling for diet or weight loss or maintenance, if physical exercise services are not provided on the premises.

(2) The seller shall give the buyer a copy of the written contract at the time the buyer signs the contract.

(3) Every contract for center services shall clearly and conspicuously disclose the identity and location of the center facilities available to the buyer. The contract shall disclose the general nature of each major facility and service that will be available including any conditions or restrictions on their use. The disclosures under this subsection may be made on a separate sheet provided to the buyer at the time the buyer signs the contract. If a facility or service is replaced by an equal or superior facility or service, the center is deemed in compliance with this subsection.

(4) Every contract for fitness center services shall provide that performance of all of the agreed upon facilities and services will be available for the buyer's use on a specified date no later than 6 months after the date the contract is signed by the buyer.

(5) Every contract for fitness center services shall be for a specified length of time not exceeding 2 years and shall clearly disclose the full price of the buyer's contractual obligation including any interest or other charges.

(5m) Every contract for weight reduction center services shall be for a specified length of time not exceeding 2 years exclusive of any weight maintenance program. If the contract for weight reduction center services includes a weight maintenance program, the contract for weight reduction center services shall be for a specified length of time not exceeding 3 years. The contract for weight reduction center services shall clearly disclose the full price of the buyer's contractual obligation including any interest or other charges.

(6) Every contract for fitness center service shall contain:

(a) A caption printed in boldface uppercase type of not less than 10-point size entitled "CANCELLATION AND REFUNDS".

(b) A provision under the caption stating: "*Right to Cancel*. You are permitted to cancel this contract until midnight of the 3rd operating day after the date on which you signed the contract. If the facilities or services that are described in the contract are not available at the time you sign the contract, you have until midnight of the 3rd operating day after the day on which you received notice of their availability, to cancel the contract. If within this time period you decide you want to cancel this contract, you may do so by notifying ... (the seller) by any writing mailed or delivered to ... (the seller) at the address shown on the contract, within the previously described time period. If you do so cancel, any payments made by you, less a user fee of no more than \$3 per day of actual use, will be refunded within 21 days after notice of cancellation is delivered, and any evidence of any indebtedness executed by you will be canceled by ... (the seller) and arrangements will be made to relieve you of any further obligation to pay the same."

(6m) Every contract for weight reduction center service shall contain:

(a) A caption printed in boldface uppercase type of not less than 10-point size entitled "CANCELLATION AND REFUNDS".

- (b) A provision under the caption stating: “*Right to Cancel*. You are permitted to cancel this contract until midnight of the 3rd operating day after the date on which you signed the contract. If the facilities or services that are described in the contract are not available at the time you sign the contract, you have until midnight of the 3rd operating day after the day on which you received notice of their availability, to cancel the contract. If within this time period you decide you want to cancel this contract, you may do so by notifying.... (the seller) by any writing mailed or delivered to.... (the seller) at the address shown on the contract, within the previously described time period. If you do so cancel, any payments made by you, less the value of services already provided to you, will be refunded within 21 days after notice of cancellation is delivered, and any evidence of any indebtedness executed by you will be canceled by.... (the seller) and arrangements will be made to relieve you of any further obligation to pay the same.”
- (7) If, at the time of execution of the center services contract, the facilities and services described in the contract are available for the buyer's use, the contract may include the written notice that the facilities and services are available as required by subs. (6) and (6m).
- (8) No contract may require the buyer to pay more than \$25 or 10 percent of the total contract price, whichever is less, prior to the date on which the customer receives written notice that the facilities and services described in the contract are available for full use by the buyer.
- (9) No contract for fitness center services may require a buyer who exercises the contractual right to cancel to pay more than a \$3 user fee per day of actual use of facilities and services by the buyer during the cancellation period. No contract for weight reduction center services may require a buyer who exercises the contractual right to cancel to pay more than the value of services provided before cancellation.
- (10) Any right of action or defense arising out of a contract for center services that the buyer has against the seller is preserved against any assignee of or successor to the contract.
- (11)
- (a) Every contract for center services shall provide that if any of the facilities or services described in the contract become unavailable or are no longer fully operational, before full receipt of the services and use of facilities for which the buyer contracted, the buyer is liable for only that portion of the total consideration proportional to the elapsed time portion of the contract at the time of the unavailability. The buyer is entitled to a refund of any other funds already paid.
- (b) A buyer has the option, in lieu of the proportional refund provided in par. (a), to choose to complete the unused portion of the contract including any renewal periods at the price disclosed in accordance with sub. (5) at another location which is owned, controlled, affiliated with or operated by the seller. Any such modification of the contract must be made in writing and may only modify the terms of the contract required under sub. (3) concerning the unavailable or no longer fully operational facilities or services.
- (c) Nothing in this subsection shall restrict a center's ability to:
1. Perform regular maintenance or make prompt equipment repairs.
  2. Make improvements to the facilities or services.
  3. Replace a facility or service with a superior facility or service.
- (12) Every contract for center services shall provide that if the buyer is unable to make use of or receive the center services contracted for because of death or disability, the buyer is liable for only that portion of the total consideration proportional to the elapsed time portion of the contract at the time of the death or disability.
- (13)
- (a) Subject to sub. (8), no center may collect or by contract require a buyer to pay more than \$100 for center services before the buyer receives or has the opportunity to receive those services unless the center establishes, for each center location, proof of financial responsibility as described in par. (b).
- (b)
1. Except as provided in subd. 3., a center may establish proof of financial responsibility required under par. (a) by maintaining an established escrow account approved by the department for all amounts received from buyers in advance of the receipt of services or by maintaining any of the following commitments approved by the department in an amount not less than \$25,000, subject to subd. 2.:
- a. A bond.
  - b. A certificate of deposit.
  - d. An irrevocable letter of credit.

2. The commitment described in subd. [1.](#) shall be established in favor of or made payable to the state, for the benefit of any buyer who does not receive a refund under sub. [\(11\) \(a\)](#). The center shall file with the department any agreement, instrument or other document necessary to enforce the commitment against the center or any relevant 3rd party, or both.
  3. For 6 or more weight reduction centers owned or operated under the same trade name, the amount of the financial commitment under pars. [\(a\)](#) and [\(b\)](#) for those weight reduction centers is not required to exceed a total of \$150,000. For a weight reduction center that submits to the department evidence satisfactory to the department that the weight reduction center collected a total of \$50,000 or more but less than \$100,000 from buyers of its center services in the previous calendar year, the amount of the financial commitment under pars. [\(a\)](#) and [\(b\)](#) is not required to exceed \$10,000. For a weight reduction center that submits to the department evidence satisfactory to the department that the weight reduction center collected less than a total of \$50,000 from buyers of its center services in the previous calendar year, the amount of the financial commitment under pars. [\(a\)](#) and [\(b\)](#) is not required to exceed \$5,000.
- (14)** Any contract for center services is unenforceable against the buyer and is a violation of this section if:
- (a) The buyer entered into the contract in reliance upon any false, fraudulent, deceptive or misleading information, representation, notice or advertisement.
  - (b) The contract does not comply with the requirements of this section.
  - (c) The seller fails to perform in accordance with the contractual provisions under this section.
  - (d) The contract contains a provision in which the buyer agrees to waive the requirements of this section.
- (15)**
- (a) The department shall investigate violations of this section or s. [100.178 \(2\)](#) or [\(4\)](#). The department may on behalf of the state:
    1. Bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of this section or s. [100.178 \(2\)](#) or [\(4\)](#). The court may in its discretion, upon entry of final judgment, award restitution when appropriate to any person suffering loss because of violations of this section if proof of such loss is submitted to the satisfaction of the court.
    2. Bring an action in any court of competent jurisdiction for the recovery of civil forfeitures against any person who violates this section or s. [100.178 \(2\)](#) or [\(4\)](#) in an amount not less than \$100 nor more than \$10,000 for each violation.
  - (am) The department may bring an action in circuit court to recover on a financial commitment maintained under sub. [\(13\)](#) against a center or relevant 3rd party, or both, on behalf of any buyer who does not receive a refund due under sub. [\(11\) \(a\)](#).
  - (b) In addition to the remedies otherwise provided by law, any person injured by a violation of this section may bring a civil action for damages under s. [100.20 \(5\)](#). Any person injured by a breach of a contract for center services may bring a civil action to recover damages together with costs and disbursements, including reasonable attorney fees, and such other equitable relief as may be determined by the court.
- History:** [1977 c. 276](#); [1987 a. 385](#); [1991 a. 247](#); [1993 a. 239](#); [1995 a. 27](#); [1997 a. 111 s. 26](#); Stats. 1997 s. 100.177.

**100.178 Fitness center staff requirements.**

- (1) In this section:
  - (b) Notwithstanding s. [93.01 \(3\)](#), "department" means the department of health services.
  - (c) "Fitness center" has the meaning given under s. [100.177 \(1\) \(c\)](#).
  - (d) "Institution of higher education" has the meaning given under s. [39.32 \(1\) \(a\)](#).
- (2) A fitness center shall do any of the following:
  - (a) At all times during which the fitness center is open and its facilities and services are available for use, have present on the premises of the fitness center at least one employee who has satisfactorily completed a course or courses in basic first aid and basic cardiopulmonary resuscitation taught by an individual, organization, or institution of higher education approved by the department and at least one employee who has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38) to provide such instruction.
  - (b) Ensure that each of its employees, within 90 days after hire, satisfactorily completes at least one course in basic first aid and basic cardiopulmonary resuscitation taught by an individual, organization, or institution of higher education approved by the department and has current proficiency in the use of an automated external defibrillator achieved

through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38) to provide such instruction.

- (4) A fitness center shall post a notice or notices on its premises stating the requirements of sub. (2) and the penalty for a violation of sub. (2) under s. 100.177 (15) (a). The notice shall comply with the rules promulgated by the department under sub. (5) (d).
- (5) The department shall promulgate rules establishing all of the following:
  - (a) The minimum standards for the qualifications and training of an individual, including an individual associated with an organization or institution of higher education, who teaches basic first aid or basic cardiopulmonary resuscitation to fitness center employees under sub. (2).
  - (b) The minimum hours of instruction and general content of the basic first aid and basic cardiopulmonary resuscitation courses taught to fitness center employees under sub. (2).
  - (c) Procedures governing the department's approval of individuals, organizations and institutions meeting the standards established under pars. (a) and (b).
  - (d) Specifications for the notice required under sub. (4) including:

1. Dimensions.
2. Print size or type.
3. The location or locations where the notice must be posted on the fitness center premises.

- (7) A violation of sub. (2) or (4) is subject to s. 100.177 (15) (a). This subsection or s. 100.177 (15) (a) does not preclude a person injured as a result of a violation of this section from pursuing any other available equitable or legal relief.

**History:** [1987 a. 385](#); [1995 a. 27 s. 9126 \(19\)](#); [1997 a. 111 s. 27](#); Stats. 1997 s. 100.178; [2007 a. 20 s. 9121 \(6\) \(a\)](#); [2007 a. 104](#).

**Cross-reference:** See also ch. [DHS 174](#), Wis. adm. code.

#### 175.22 Policy on privacy in locker rooms.

- (1) In this section:
  - (a) "Person" includes the state.
  - (b) "Recording device" means a camera, a video recorder, or any other device that may be used to record or transfer images.
- (2) Any person that owns or operates a locker room in this state shall adopt a written policy that does all of the following:
  - (a) Specifies who may enter and remain in the locker room to interview or seek information from any individual in the locker room.
  - (b) Specifies the recording devices that may be used in the locker room and the circumstances under which they may be used.
  - (c) Reflects the privacy interests of individuals who use the locker room.
  - (d) Specifies that no person may use a cell phone to capture, record, or transfer a representation of a nude or partially nude person in the locker room.

History: 2007 a. 118.

#### 134.49 Renewals and extensions of business contracts.

- (1) DEFINITIONS. In this section:
  - (a) "Business contract" means a contract that is entered into for the lease of business equipment, if any of the business equipment is used primarily in this state, or for providing business services, but only if the contract is for the direct benefit of the end user of the business equipment or business services. "Business contract" does not include any of the following:
    1. A contract in which a customer agrees to purchase from a seller an undetermined amount of business services or lease from the seller an undetermined amount of business equipment, and agrees to pay the seller based on the amount of business services received or business equipment leased, subject to a predetermined minimum payment in a 12-month period specified in the contract, if the predetermined minimum payment is \$250,000 or more.
    2. A contract for the lease or purchase of real property.
    3. A contract for the lease of a vehicle for which a certificate of title has been issued under ch. [342](#).
    4. A contract for the lease of medical equipment.

5. A contract derived from a tariff issued by an energy utility, as defined in s. [196.027 \(1\) \(c\)](#).
  6. A contract for the lease of equipment that is for personal, family, or household purposes.
  7. A contract for the purchase of services that are for personal, family, or household purposes.
  8. A contract for the lease or purchase of access service, as defined in s. [196.01 \(1b\)](#).
  9. An interconnection agreement, as defined in s. [196.01 \(3b\)](#), or a contract or agreement offered by a telecommunications utility, as defined in s. [196.01 \(10\)](#), to meet obligations imposed on the telecommunications utility under [47 USC 151 to 276](#).
  10. A contract for the lease or purchase of telecommunications service, as defined in s. [196.01 \(9m\)](#), including commercial mobile service, as defined in s. [196.01 \(2i\)](#), if the contract is derived from a tariff issued by a telecommunications provider, as defined in s. [196.01 \(8p\)](#), or if the contract permits the lessee or purchaser to terminate the contract after an automatic renewal by giving written notice, permits the termination to take effect not more than one month after receipt of the written notice, and permits a termination without liability for fees or penalties other than a payment for services or equipment used during the period before the termination takes effect, if the amount of the payment is one of the following:
    - a. The amount of the periodic payment due under the contract multiplied by the number of periods during which the services or equipment are provided before the termination takes effect.
    - b. If the contract does not provide for periodic payments, a portion of the amount due under the contract that is proportional to the portion of the renewed contract term that elapsed before the termination takes effect.
  11. A contract that permits a customer to terminate an automatically renewed or extended contract period by giving the seller notice of the customer's intention to terminate the contract period, if the contract does not require the customer to give notice to the seller more than one month before the date of the customer's intended termination.
  12. A contract to which a federal, state, or local government entity is a party.
  13. A contract between a cooperative association organized under ch. [185](#) and a member of the cooperative, or a contract under which a cooperative association organized under ch. [185](#) is a seller.
  14. A contract for the lease, maintenance, repair, service, or inspection of elevator or escalator systems, including mechanical and electrical components of such systems when built into real property.
  15. A contract for the supply of industrial, medical, or other gases in any form, including for the lease, service, or use of cylinders, tanks, hard goods, or other related equipment involved in supplying the gases.
- (b) "Customer" means a person who conducts business in this state and who is the lessee under a business contract that is entered into for the lease of business equipment or the purchaser under a business contract that is entered into for the purchase of business services.
- (c) "Seller" means the provider of a business service or the lessor of business equipment under a business contract.
- (2) DISCLOSURE REQUIRED.
- (a) Subject to par. (d), if a business contract that is entered into, modified, or renewed after May 1, 2011, provides that the contract will be automatically renewed or extended for an additional period unless the customer declines renewal or extension, and the duration of the additional period is more than one month, the seller shall do one of the following:
1. At the time the customer enters into the contract, present to the customer a copy of a form including the disclosures required under par. (b) and obtain the customer's signature on the form.
  2. Include the disclosures required under par. (b) in the contract in a conspicuous manner and obtain the customer's initials on the contract on a page on which a disclosure appears.
- (b) A disclosure required under par. (a) shall contain all of the following:
1. A statement that the contract will be renewed or extended unless the customer declines renewal or extension.
  2. A statement indicating the duration of the additional contract period that would result from an automatic renewal or extension period.
  3. A statement indicating whether an increase in charges to the customer will apply upon an automatic renewal or extension.
  4. A description of action the customer must take to decline renewal or extension.
  5. The date of the deadline for the customer to decline renewal or extension.
- (c) If a seller fails to comply with par. (a), an automatic renewal or extension provision in the contract is not enforceable, and the contract terminates at the end of the current contract term.
- (d) Paragraph (a) does not apply to a contract in effect on May 1, 2011, or to subsequent renewals of such a contract.
- (3) NOTICE REQUIRED. If a business contract that has an initial term of more than one year provides that the contract will be automatically renewed or extended for an additional term of more than one year, unless the customer declines renewal



or extension, and the deadline for the customer to decline renewal or extension of the contract is more than 60 days after May 1, 2011, the provision is not enforceable against the customer and the contract will terminate at the end of the current contract term unless the seller provides to the customer, at least 15 days but not more than 60 days before the deadline for the customer to decline renewal or extension, a written notice containing all of the following:

- (a) A statement that the contract will be renewed or extended unless the customer declines renewal or extension.
- (b) The deadline for the customer to decline renewal or extension.
- (c) A description of any increase in charges to the customer that will apply after renewal or extension.
- (d) A description of action that the customer must take to decline extension or renewal.
- (4) MANNER OF GIVING NOTICE. A seller or a person acting on behalf of the seller shall give the written notice required under sub. (3) by any of the following methods:
  - (a) By mailing a copy of the notice by regular U.S. mail to the customer at the customer's last-known business address, unless the contract requires the customer to notify the seller by certified mail of the customer's intent to cancel.
  - (b) By mailing a copy of the notice by registered or certified mail to the customer at the customer's last-known business address.
  - (c) By giving a copy of the notice personally to an owner, officer, director, or managing agent of the customer's business.
  - (d) By including the notice on the first page of a monthly invoice sent to the customer. Notice under this paragraph shall be prominently displayed in bold face type and in a type size no smaller than 12-point.
  - (e) By sending a facsimile to the customer to the customer's last-known facsimile number, if the contract permits the customer to use this method to notify the seller that the customer declines renewal or extension of the contract.
  - (f) By sending an electronic mail message to the customer at the customer's last-known electronic mail address, if the contract permits the customer to use this method to notify the seller that the customer declines renewal or extension of the contract.
  - (g) By sending the notice via a recognized overnight courier service, if the contract permits the customer to use this method to notify the seller that the customer declines renewal or extension of the contract.
- (5) UNENFORCEABLE TERMS. No business contract between a seller and a customer that is entered into, modified, or renewed after May 1, 2011, may require that the customer permit the seller to match any offer the customer receives from or makes to another seller for services to be provided after the end of the stated term of the contract or renewal period of the contract. A provision in a business contract that violates this subsection is void and unenforceable.
- (6) REMEDIES.
  - (a) Any of the following customers may bring an action or counterclaim for damages against a seller:
    - 1. A customer who has notified a seller that the customer declines renewal or extension of a business contract to which sub. (3) applies, if the seller has failed to give notice as required under subs. (3) and (4) and the seller has refused to terminate the contract as requested by the customer.
    - 2. A customer against whom a seller has attempted to enforce a provision in a business contract that is unenforceable under sub. (5).
  - (am) Notwithstanding par. (a) 1., if a seller who fails to give to a customer a notice required under sub. (3) subsequently receives notice that the customer declines renewal or extension and agrees to terminate the contract as of the date the customer notified the seller, the customer is responsible for charges incurred by the customer under the contract before the date on which the customer notified the seller and the customer may not bring an action against the seller based on the seller's failure to provide the required notice, unless the seller's failure to provide the required notice was willful or malicious.
  - (b) A customer who prevails in an action or counterclaim under par. (a) is entitled to damages in either of the following amounts:
    - 1. An amount that equals twice the amount of the damages incurred by the customer.
    - 2. An amount that equals twice the amount of the periodic payment specified in the contract or \$1,000, whichever is less.
  - (c) Notwithstanding the limitations in s. 814.04 (1), the court shall award a customer who prevails in an action or counterclaim under this subsection costs, including reasonable attorney fees.
  - (d) A seller is not liable in an action or counterclaim under this subsection if the court finds either of the following:
    - 1. All of the following:
      - a. The seller has established and implemented written procedures for complying with this section.
      - b. The seller's failure to comply with subs. (3) and (4), or the seller's attempt to enforce a provision that is void and unenforceable under sub. (5), was not willful or malicious.

- c. The seller has refunded any amounts paid by the customer after the date of the renewal or extension until the date on which the business contract is terminated.
- 2. The customer requested, in writing, renewal or extension of the contract that is the basis for the customer's action or counterclaim against the seller, and the customer was aware of the terms under which the contract would be renewed or extended.