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13-23-2 Definitions.

As used in this chapter:

- (1) "Business enterprise" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in carrying on a business.
- (2) "Consumer" means a purchaser of health spa services for consideration.
- (3) "Consumer's primary location" means the health spa facility that a health spa designates in a contract for health spa services as the health spa facility the consumer will primarily use for health spa services.
- (4) "Division" means the Division of Consumer Protection.
- (5)
 - (a) "Health spa" means a business enterprise that provides access to a facility:
 - (i) for a charge or a fee; and
 - (ii) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.
 - (b) "Health spa" does not include:
 - (i) a licensed physician who operates a facility at which the physician engages in the practice of medicine;
 - (ii) a hospital, intermediate care facility, or skilled nursing care facility;
 - (iii) a public or private school, college, or university;
 - (iv) the state or a political subdivision of the state;
 - (v) the United States or a political subdivision of the United States;
 - (vi) a person offering instruction if the person does not:
 - (A) utilize an employee or independent contractor; or
 - (B) grant a consumer the use of a facility containing exercise equipment;
 - (vii) a business enterprise, the primary operation of which is to teach self-defense or a martial art, including kickboxing, judo, or karate;
 - (viii) a business enterprise, the primary operation of which is to teach or allow an individual to develop a specific skill rather than develop or preserve physical fitness, including gymnastics, tennis, rock climbing, or a winter sport;
 - (ix) a business enterprise, the primary operation of which is to teach or allow an individual to practice yoga or Pilates;
 - (x) a private employer who owns and operates a facility exclusively for the benefit of the employer's employees, retirees, or family members, if the operation of the facility:
 - (A) is only incidental to the overall function and purpose of the employer's business; and
 - (B) is offered on a nonprofit basis;
 - (xi) an individual providing professional services within the scope of the individual's license with the Division of Occupational and Professional Licensing;
 - (xii) a country club;
 - (xiii) a nonprofit religious, ethnic, or community organization;
 - (xiv) a residential weight reduction center;
 - (xv) a business enterprise that only offers virtual services;
 - (xvi) a business enterprise that only offers a credit for a service that a separate business enterprise offers;
 - (xvii) the owner of a lodging establishment, as defined in Section 29-2-102, if the owner only provides access to the lodging establishment's facility to:
 - (A) a guest, as defined in Section 29-2-102; or

- (B) an operator or employee of the lodging establishment;
 - (xviii) an association, declarant, owner, lessor, or developer of a residential housing complex, planned community, or development, if at least 80% of the individuals accessing the facility reside in the housing complex, planned community, or development; or
 - (xix) a person offering a personal training service exclusively as an employee or independent contractor of a health spa.
- (6) "Health spa facility" means a facility to which a business entity provides access:
- (a) for a charge or a fee; and
 - (b) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.
- (7)
- (a) "Health spa service" means instruction, a service, a privilege, or a right that a health spa offers for sale.
 - (b) "Health spa service" includes a personal training service.
- (8) "Personal training service" means the personalized instruction, training, supervision, or monitoring of an individual's physical fitness or well-being, through exercise, weight control, or athletics.