

**Effective 5/4/2022**

**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) "Division" means the Division of Consumer Protection.
- (4)
  - (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 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.
- (5) "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.
- (6)
  - (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.
- (7) "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.
- (8) "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 in the contract will primarily use for health spa services.

Amended by Chapter 400, 2022 General Session

Amended by Chapter 415, 2022 General Session