

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171
FAX: (802) 828-3187
TTY: (802) 828-3665

<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

May 5, 2020

VIA EMAIL – sean@clubfitness.com

Sean Manovill, Owner
Club Fitness
275 N. Main St.
Rutland, VT 05701

Re: Violations of Executive Order 01-20

Dear Mr. Manovill:

The State of Vermont has declared a public health emergency and has issued orders to keep Vermonters safe and at home to prevent the spread of COVID-19 (also known as the “coronavirus”). You are receiving this letter because one or more members of the public have expressed concern to responsible State agencies that you may be carrying on activities in violation of those orders. It is our understanding that the Rutland Police Department met with you yesterday and advised you of the obligations to comply with the Governor’s Executive Order and not to open your facility for any form of in-person business or services.

On March 21, Governor Scott issued [Addendum 4 to Executive Order 01-20](#) (closure of close-contact businesses) ordering all “gymnasiums, fitness centers and similar exercise facilities” to “cease all in-person operations” as of 8 p.m. on March 23. On March 24, Governor Scott issued [Addendum 6 to Executive Order 01-20](#) ordering all Vermonters not engaged in essential activities to “stay safe” and “stay home.” Addendum 6 specifically requires that except in limited cases, “effective Wednesday, March 25, 2020 at 5 p.m. . . . all businesses and not-for-profit entities in the state shall suspend in-person business operations.” Addendum 6 excepted only “[b]usinesses and entities providing services or functions deemed critical to public health and safety, as well as economic and national security” Such businesses “shall remain in operation” subject to “strict adherence to CDC and VDH guidance to ensure recommended social distancing.” The list of “[s]ervices or functions in Vermont deemed critical to public health and safety, as well economic and national security” provided in Addendum 6 does not include health clubs or gyms. On April 10, Governor Scott extended the state of emergency and the effective date of Executive Order 01-20, and all Addenda issued thereunder, until midnight on May 15, 2020.

The Vermont Agency of Commerce and Community Development (ACCD) has developed “Sector Specific Guidance” to help Vermont businesses determine whether it meets the definition of “critical to public health and safety, as well as economic and national security.” See ACCD website “Stay Home Stay Safe Sector Specific Guidance” available at: <https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance>.

The ACCD Sector Specific Guidance for “[Health and Beauty](#)” states:

*Gyms, fitness studios, salons, spas, and other similar businesses and the retail operations that support these businesses should cease, including employee-to-employee interactions within the business. **The [Phased Restart Work Safe Guidance](#) does not allow these businesses to resume operations.***

The Governor’s Order and ACCD guidance is clear: gyms and fitness centers may not operate at this time. The need to protect elderly or immunocompromised persons is still urgent. Within just over a month and a half—from March 15 to May 5—Vermont saw the number of COVID-19 cases increase from 12 to 907. We now have 52 Vermonters who have died from the disease. While the state is starting to take small steps—a “phased restart”—towards re-opening some businesses and services, we must do so slowly and carefully. We must avoid a second wave of cases that could overwhelm our health care system and undo all the sacrifices we have made so far.

The State recognizes the difficulties the emergency order is placing on Vermonters and Vermont businesses. However, the risks associated with the spread of COVID-19 are simply too great. All organizations must follow the same rules. **We wish to be very clear: you must immediately cease all in-person operations in your health club facilities.** Feel free to conduct alternative services, such as over live video streaming. Should you do so, however, you must eliminate in-person contact.

Please immediately advise me by email to Eleanor.Spottswood@vermont.gov or by calling (802) 828-3178 of your intention to comply with the above. If you do not intend to comply, or if I do not hear from you by **noon tomorrow, May 6, 2020**, the Attorney General will seek a court order to compel Club Fitness to immediately cease in-person business and services and may pursue penalties as provided in Vermont law.¹

Sincerely,



Eleanor L.P. Spottswood
Assistant Attorney General

¹ A violation of an emergency executive order is a criminal misdemeanor and punishable by imprisonment of up to six months and a criminal fine of up to \$500. 20 V.S.A. § 24. A violation of an emergency executive order may also be punished by civil penalties of up to \$1000 per violation per day. 20 V.S.A. § 40(b). And the Attorney General may pursue a restraining order against your business to ensure it stays closed. 20 V.S.A. § 40(c).