

**R392. Health, Disease Control and Prevention, Environmental Services.**

**R392-700. Indoor Tanning Bed Sanitation.**

**R392-700-1. Authority and Purpose.**

This rule establishes tanning facility standards. It is authorized by Section 26-15-2 and 26-15-13.

**R392-700-2. Applicability.**

This rule applies to places where consideration is given in exchange for access to a tanning device. This rule does not apply to private, non-commercial use of tanning equipment exclusively for non-commercial use. A tanning facility may not operate in Utah unless the facility owner has obtained a permit to do so from the local health department with jurisdiction.

**R392-700-3. Definitions.**

As used in this rule:

- (1) "Department" means the Utah Department of Health.
- (2) "Operator" means any person who owns, leases, or manages a business operating a tanning facility.
- (3) "Patron" mean any person who enters a tanning facility with the intent to use a tanning device.
- (4) "Phototherapy Device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease when used at the health care professional's health care office or clinic.
- (5)(a) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin, including:
  - (i) a sunlamp; and
  - (ii) a tanning booth or bed.
- (b) "Tanning device" does not include a phototherapy device.
- (6) "Tanning Facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.
- (7) "Timing Device" means a device that is capable of ending the emission of ultraviolet radiation from tanning device after a preset period of time.
- (8) "Ultraviolet Radiation" means electromagnetic radiation that has a wave length interval of 200 nanometers to 400 nanometers in air.

**R392-700-4. Warning Sign Placement.**

(1) The operator of a tanning facility shall post a warning sign that meets the requirements of this rule in a conspicuous location that is readily visible to a person about to use a

tanning device.

(a) The operator shall place the warning sign so that all patrons are alerted to the hazard and informed before being exposed to UV radiation. At a minimum, the operator shall post the warning sign:

(i) in the line of sight of a person presenting at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session; and

(ii) on a vertical surface in the reception area so that the top border of the writing is between five and six feet above the patron floor level at the reception or sales counter area.

#### **R392-700-5. Warning Sign Requirements.**

(1) The warning sign required by R392-700-5 shall meet the requirements of this section. An Adobe Acrobat Portable Document Format, .pdf, file that meets the requirements of this section is available from the Department or the local health department.

(2) The sign shall be in a landscape format 11 inches high by 17 inches wide on a white background.

(3) All lettering shall be in Arial font as produced in Adobe Acrobat. In addition, the letters shall be:

(a) black in color

(b) all uppercase

(c) adequately spaced and not crowded

(4) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:

(a) be 3.3 centimeters, high and 42 centimeters wide, including a black line border that is 0.16 centimeter wide surrounding the safety orange background;

(b) have the word "WARNING" in capital letters that are 80 points in size (approximately two centimeters high); and

(c) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING"

(5) The safety alert symbol shall be black with a yellow field.

(6) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(7) Immediately below the orange panel shall appear the words: "UV RADIATION HEALTH RISK" in letters that are 61 points in size (approximately 1.5 centimeters high) and centered between the vertical margins. The vertical space between the "WARNING" panel and the top of the words "UV RADIATION HEALTH RISK" shall be approximately 1.6 centimeters. The vertical space between the bottom of the words "UV RADIATION HEALTH RISK" and the top of the words of the first bulleted statement required in subsection (9) shall be approximately 1.6 centimeters.

(8) Beneath the "UV RADIATION HEALTH RISK" line shall appear the body wording of the sign in letters that are 39 points in size (approximately one centimeter high).

(9) The body of the sign shall be the following four bulleted statements:

-TANNING DEVICES MAY CAUSE SEVERE EYE AND SKIN DAMAGE AND MAY CAUSE CANCER

-TALK TO A DOCTOR IF YOU ARE PREGNANT OR ON ORAL CONTRACEPTIVES OR OTHER DRUGS

-WAIT AT LEAST 48 HRS BEFORE RE-TANNING

-REQUIRED FOR ALL PERSONS UNDER 18 YEARS FOR EACH TANNING SESSION: IN PERSON WRITTEN CONSENT BY PARENT OR LEGAL GUARDIAN OR PHYSICIAN'S WRITTEN ORDER

(10) The vertical spacing between each of the bulleted statements shall be approximately 1.6 centimeters. The margins to the right and left of the bulleted statements shall be no less than 4.4 centimeters.

(11) The vertical spacing between the last bulleted statement and the bottom margin of the paper shall be no less than two centimeters.

(12) Local health departments may add additional warning requirements that are applicable to all patrons of all tanning facilities.

### **R392-700-6. Written Health Risk Warning and Signed Consent.**

(1) It is unlawful for any operator of a tanning facility to allow a person younger than 18 years old (hereinafter "minor" ) to use a tanning device, unless the person either:

(a) has a written order from a physician as a medical treatment that includes the frequency and duration of tanning sessions; or

(b) at each time of use is accompanied at the tanning facility by a parent or legal guardian who signs a written consent form authorizing the minor to use the tanning device (the parent or legal guardian is not required to remain at the facility for the duration of the use).

(2) The operator shall not allow a minor to exceed a physician's order for tanning in either frequency or duration of the tanning sessions.

(3) The consent form for use of a tanning device by a minor shall conform to the Utah Department of Health Tanning Consent Form, July 2012, which is incorporated by reference.

(4) Before allowing a patron to use a tanning device, the operator shall require the patron to provide proof of age.

(5) The operator or designee shall not allow any person to use a tanning device without providing the information listed under (6) to the patron (or parent or legal guardian in the case

of a minor).

(6) Before allowing any patron to use a tanning device, the operator shall upon a patron's initial visit to the tanning facility and annually thereafter:

(a) provide the patron (or parent or legal guardian in the case of a minor) a written paper health risk warning notice containing the health risk information in subsection (7);

(b) provide the patron (or parent or legal guardian in the case of a minor) an opportunity to read the notice and ask questions;

(c) obtain the patron's (or parent's or legal guardian's in the case of a minor) dated signature signifying that the patron (or parent or legal guardian in the case of a minor) has read and understands the notice;

(d) give the patron (or parent or legal guardian in the case of a minor) a copy of the notice.

(7) The notice required in subsection (3) shall include the following:

(a) a representative list of potential photosensitizing drugs and agents and the importance of consulting a physician before tanning if the patron is taking certain medicines, has a history of skin problems, is pregnant, or is sensitive to sunlight;

(b) information regarding potential negative health effects related to ultraviolet exposure including:

(i) the increased risk of skin cancer and increased risk for those patrons with health problems who sunburn easily, have a family history of melanoma, or often get cold sores;

(ii) the increased risk of skin thinning, wrinkling, and premature aging;

(iii) the possible adverse effect on some viral conditions or medical condition, such as lupus when using a tanning device.

(c) information on how to determine skin sensitivity and information on how different skin types respond to the tanning facilities different tanning devices and the importance of adhering to the time limit the manufacturer recommends for each skin type;

(d) an explanation of Ultraviolet-A (UVA) and Ultraviolet-B (UVB) light's effect on the body, the need to use proper protective eye wear with both UV-A and UV-B systems, and that closing the eyes is not sufficient to prevent possible eye damage;

(e) information on the capacity of devices, including proper exposure times and intensity;

(f) information on the risk of tanning too frequently and on over exposure including advice to space tanning sessions 48 hours apart and information on how long it takes before skin burns may develop;

(g) the importance of the use of protective eye wear including the possibility of eye damage if the eye wear is not used and the tanning device's recommendations on how to properly use eye wear while using the tanning device;

(h) information that tanning may be inadvisable during pregnancy; and

(i) other relevant medical information as determined by the local health department, but at a minimum, the local health department contact information to enable the patron to obtain additional information regarding skin cancer.

(8) The operator shall retain the signed patron notices at the tanning facility and make them readily available for inspection by the Department and local health department.

(9) The operator shall provide a separate enclosed area for each tanning device that ensures patron safety and privacy.

(10) The operator shall ensure that only one person enters tanning area during a tanning session.

(11) The operator shall not allow an animal, except for a service animal, to be in a tanning area during a tanning session. The operator shall ensure that service animals allowed in tanning areas be provided eye protection from UV exposure.

#### **R392-700-7. Tanning Devices.**

(1) A tanning facility may use only commercially available tanning devices manufactured and certified in compliance with 21 CFR 801.4, 21 CFR 1010.2 and 1010.3, and 21 CFR 1040.20.

(a) The operator shall follow all manufacturer safety instructions applicable to each tanning device.

(b) The operator shall not:

(i) operate any tanning device that has an ineffective or inoperable timing device or for which the timing device is missing;

(ii) exceed the manufacturer's maximum recommended exposure time; or

(iii) exceed the exposure time recommended by the manufacturer in compliance with 21 CFR 1040.20(d)(1)(iv).

(3) The operator shall maintain at the tanning facility the manufacturer's operating instructions, exposure recommendations, and safety instructions for each tanning device.

(4) The operator shall centrally install and locate the timing device controls for each tanning device so that a patron may not set or reset the exposure time on any tanning device.

(5) The operator shall control the temperature of the consumer contact surfaces of a tanning device and the surrounding area so that it will not exceed 100 degrees Fahrenheit.

(6) The operator shall maintain the tanning devices in good repair.

(7) The operator shall provide physical barriers to protect patrons from possible injury which may be induced by touching or breaking tanning equipment lamps.

(8) The operator shall provide physical barriers or other methods, such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the patron's skin.

(9) The operator shall replace defective or burned-out lamps or filters with lamps and filters that are clearly identified by brand and model designation by the replacement lamp by the lamp manufacturer. The operator shall maintain lamp manufacturer's labeling and user instructions at the facility that demonstrate the equivalence of any replacement lamp or filter.

(10) An operator shall not advertise or promote the use of any tanning equipment using wording such as "safe," "safe tanning," "no harmful rays," "no adverse effect," "free from risk," or similar wording or concept.

(11) The operator shall track each patron's usage to ensure that a patron does not use a tanning device more frequently than once each calendar day or in excess of the manufacturer's recommended exposure.

(12) The tanning device shall allow each patron to exit the tanning device without assistance from the operator.

(13) The operator shall assess each patron's skin type and sensitivity and consider the intensity of the radiation output of the tanning devices in the tanning facility when assigning a patron to use a particular tanning device.

#### **R392-700-8. Protective Eye Wear.**

Prior to each tanning session, the operator shall offer protective eye wear to each patron, instruct the patron on proper use and the importance of proper use of eye wear, and notify the patron of possible damage that might occur to the patron if the patron does not wear it. Protective eye wear shall be eye wear that is supplied by the manufacturer for use with the tanning device or that is the equivalent to the protective eye wear supplied by the manufacturer.

#### **R392-700-9. Tanning Physical Facilities.**

(1) The operator shall provide a restroom that includes a flushing toilet and a hand-washing sink with hot and cold running water accessible to patrons at each tanning facility. The operator shall ensure that tanning facility floors and walls in the toilet rooms and hand-washing areas are constructed of smooth, non-absorbent material.

(2) The operator shall ensure that all areas of the tanning facility and temporary tanning facility are properly ventilated.

The internal ambient air temperature of the facility shall not exceed 85 degrees F.

(3) The operator shall ensure that all rooms of a tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.

(4) To prevent patron slip injury, the operator shall ensure that the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.

#### **R392-700-10. Tanning Facility Sanitation.**

(1) The operator shall maintain in good repair and in a sanitary condition all portions of the tanning facility, including wall, floors, ceilings, and equipment.

(2) The operator shall clean and sanitize before each use, all:

(a) reusable protective eye wear;

(b) body contact surfaces of the tanning device; and

(c) body contact surfaces of the tanning booth, including all seating surfaces and door knobs.

(3) The operator shall clean the items in subsection (2) using a detergent or other agent able to emulsify oils and hold dirt in suspension using a concentration as indicated by the detergent or other agent manufacturer's use directions included on the product labeling. The operator shall sanitize the items in subsection (2) with a chlorine sanitizer or a quaternary ammonia compound using a concentration as indicated by the sanitizer or compound manufacturer's use directions included on the product labeling.

(4) If the operator cleans the items in a separate process from sanitizing the items, the operator shall clean the items prior to sanitizing them. The operator may use a single product to both clean and sanitize if that product meets the requirements of subsection (3) for the cleaning and sanitizing of the items in subsection (2).

(5) The operator shall ensure that restroom facilities are maintained in a clean and sanitary condition. The operator shall provide hand soap and single use hand drying towels or a hand drying mechanism for patron use.

(6) The operator shall clean and sanitize towels or other linens after each use.

#### **R392-700-11. Permit Requirements.**

(1) A tanning facility may not operate in Utah unless it has first obtained a permit to operate from the local health department with jurisdiction.

(2) In order to obtain a permit, the facility must fill out

the required local health department form, submit the form to the local health department, and pay the associated fee. A permit, unless revoked, is good for one year.

(3) Before the facility is eligible for a permit, the tanning facility operator must demonstrate to the local health department that the facility can meet the tanning physical facility requirements, warning sign requirements, and the tanning device requirements in this rule. The tanning facility operator must also demonstrate that the facility has the systems in place to meet the written consent requirements, information notification requirements, eye wear requirements, and operational requirements in this rule.

(4) The tanning facility operator must be able to demonstrate to the local health department initially and upon subsequent inspections sufficient knowledge of safe operation of the tanning device in accordance with manufacturers recommendations.

**R392-700-12. Enforcement and Penalties.**

A person who violates a provision of this rule that is also a provision of Section 26-15-13 may be subject to a class C misdemeanor, and revocation of the permit to operate. A person who violates a provision of this rule that is not also a provision of Section 26-15-13 is subject to a civil penalty as provided in Section 26-23-6.

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