

**WHEELING-OHIO COUNTY BOARD OF HEALTH
WHEELING-OHIO COUNTY HEALTH DEPARTMENT**

TITLE

This Regulation shall be known as the Wheeling-Ohio County Health Department Tanning Bed Regulation and shall cover Ohio County, West Virginia.

PURPOSE

The Wheeling-Ohio County Department and its governing Board of Health has an obligation to ensure that tanning facilities adhere to the minimum age of participants in accordance with the WV Legislative Rules governing tanning facilities. The Wheeling-Ohio County Health Department also has an obligation to ensure that tanning facilities are sanitary.

DEFINITIONS

1. Photo therapy device means a device used for exposure to daylight or to specific wavelength of light using lasers, light-emitting diodes, Fluorescent lamps, Dichroic lamps, or very bright, full spectrum light, usually controlled with various devices.
2. Tanning device means any equipment that emits radiation used for tanning of the skin, such as a sun lamp, tanning booth or tanning bed, and includes any accompanying equipment, such as protective eye wear, timers and handrails.
3. Tanning facility means any commercial location, place, area, structure or business where a tanning device is used for a fee, membership dues or other compensation.

CERTIFICATE OF REGISTRATION

No tanning facilities located within the boundaries of Ohio County shall operate without a certificate of registration issued by the Wheeling-Ohio County Health Department. Any tanning facility in operation prior to this regulation will be required to obtain a certificate of registration within 120 days from the effective date of the regulation. The registration holder shall post the certificate in a conspicuous place on any premises where the tanning facilities are located. A person shall obtain a separate certificate of registration for each premise owned or operated by that person. The certificate shall be renewed on July first of each year

CHANGE OF OWNERSHIP

Tanning facility certificate of registration is not transferable from one address to another or from one owner to another.

OPERATION STANDARDS

1. A tanning facility shall provide to any patron who wishes to use a tanning device located within its tanning facility a disclosure and consent form relating to use of a tanning device that contains the current United States Food and Drug Administration warning as follows
 - a. "Danger, Ultraviolet Radiation. Follow instructions. Avoid overexposure. As with natural light, overexposure can cause eye and skin injury and allergic reactions. REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN CANCER. WEAR PROTECTIVE EYEWEAR, FAILURE TO DO SO MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult physician before using tanning device if

you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from use of this product.”

This disclosure and consent form must have a place for the patron’s signature, the date signed and a space for the patron’s date of birth. A signed and dated copy of the disclosure and consent form shall be maintained by the tanning facility and remains valid for one year from the date it was signed.

2. All patrons are required to present proof of age prior to use of a tanning device. Proof of age shall be satisfied with a driver’s license or other government issued identification containing the date of birth and a photograph of the individual. A copy of the driver’s license or identification shall be kept on file at the tanning facility for patron’s using a tanning device. Persons under the age of eighteen (18) may not be permitted to use a tanning device without the prior written consent of the parent or legal guardian. Parent or legal guardian shall be present at tanning facility and show photographic identification. A copy of identification and a copy of the signed parental or legal guardian consent shall be maintained by the tanning facility and remain valid for one year from the date it was signed. All records shall be maintained for 3 years. Persons under the age of fourteen shall not be permitted to use a tanning device.

Nothing in this article may be construed as prohibiting any health care provider licensed under chapter thirty one of the West Virginia State Code from performing any action within the scope of his or her practice that results in prescribing the use of a photo therapy device to a patient regardless of the patient’s age for treatment of a medical condition.

DESIGN STANDARDS

1. Floor Plans

- a. All tanning facilities shall submit a drawing to the Wheeling-Ohio County Health Department with the following
 - i. The location of the rooms/booths with tanning equipment
 - ii. The location of entrances, all doors and windows
 - iii. Walls and partitions shall be non-transparent and of sufficient height and rigidly as to provide proper privacy
 - iv. Location of facility rest rooms
- b. Tanning facility rooms in a residential building and being used by consumers shall maintain a separate entrance which shall not open directly into any part of the dwelling including the garage.
- c. Mobile home, motor home, trailer or any type of recreational vehicle must be permanently set on a foundation and comply with other rules, in order for their rooms to be approved for tanning services.

2. Display of Sign

Every establishment with a certificate to operate a tanning services shall display at its main entrance a sign of appropriate size which will be clearly visible from the street which states “tanning facility” or words having the same meaning, except that in the case of a tanning facility located within a department store, health club or athletic facility or shopping center, the sign may be displayed inside at the entrance to the tanning facility.

3. Dressing Rooms and Toilet Facilities

A tanning facility shall be equipped with dressing rooms and toilet facilities, which include a water closet and hand washing sink, including hot and cold running water, pump soap and a paper towel dispenser or equivalent hand drying equipment. All toilet facilities and dressing rooms shall be kept clean, sanitary and functional at all times. Toilet facilities should have non-absorbent, non-carpeted floor covering

4. Sanitation

- a. No article or equipment shall be offered to or used by a patron unless that article has first been sanitized with a viricidally effective product including all eyewear used by the patron.
- b. Walls, floors, and fixtures shall be kept clean at all times.

5. Tanning Units

- a. Each booth-type sunlamp product shall provide a handrail for use during operation of the tanning facility. Each tanning facility shall have, clearly marked, the appropriate position the user is to assume prior to operation and comply with all other applicable statutes and rules pertaining to tanning equipment. Each booth must be housed in a separate room unless the booth also incorporates a dressing area in its design.
- b. Each tanning bed shall be located in a separate room with a lockable door to provide privacy.
- c. Salons with tanning facilities that are subsequently closed shall remove tanning beds from the view and access of the public.

6. Emergency Control Switch

Each sunlamp product shall incorporate a control on the product to enable the user to manually terminate radiation without pulling the electrical plug or coming in contact with the ultraviolet lamp.

7. Timers

- a. Each sunlamp product shall incorporate a timing device with multiple timer settings adequate for the manufacturer's recommended exposure intervals to produce the expected results.
- b. Each assembly of tanning equipment shall be equipped with a timer. The maximum timer interval shall not exceed the manufacturer's recommended exposure time.
- c. These timers should be such that clients who are tanning cannot reset or extend the time from in the room.
- d. The certificate holder shall perform timer checks on beds with mechanical timers every time bulbs are changed and at least once a year.

8. Bulbs Must Be Shielded

Each ultraviolet lamp contained within the sunlamp product shall be shielded so as to not come into any contact with the user. Two one piece transparent covers, top and bottom, shall be used for this purpose and the covers shall not contain cracks or breaks in their surfaces.

9. Bulb Replacement/Compatibility

- a. The certificate holder shall replace ultraviolet lamps, bulbs and filters at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps or bulbs or filters and these items shall be replaced as soon as they become defective or damaged. Only those lamps, bulbs or filters, meeting the requirements of the United States Food and Drug Administration for any particular bed may be used in its operation, and the facility must maintain the manufacturer's recommendation on file in the facility.
- b. Each tanning bed shall have the UV bulbs installed such that the bulb information is readily available for the sanitarian to verify that the information on the bulb matches

the manufacturer's recommended bulb list. For any tanning device that does not meet this requirement the owner shall remove the shielding in order that the sanitarian can easily verify UV bulb compatibility.

10. Protective Eyewear

- a. The certificate holder shall provide protective eyewear to each consumer for use during any use of tanning equipment. This protective eyewear shall meet the requirements for use in tanning facility. The certificate holder shall ensure that the protective eyewear required by this rule is properly sanitized before each use, is not altered in any way, and shall not rely upon exposure to the ultraviolet radiation produced by the tanning equipment itself to provide such sanitizing and be adequate for the protection of the consumer's eyes.
- b. Each operator shall perform the following function as a precondition to access of the tanning facility to the public. The operator shall provide to each person desiring to use a tanning facility pre-sanitized units and protective eyewear. This means the facility shall have free eyewear for customer use, which does not exclude the facility from offering eyewear for sale.

11. Regulation of Temperature

Each tanning facility shall be so equipped to dissipate heat so that the interior temperature does not exceed one hundred degrees Fahrenheit or thirty-four degrees Centigrade. Every tanning room within the facility shall have a thermometer mounted five (5) feet above the floor. Adjacent to the thermometer shall be a sign that states. "Patrons shall not tan if temperature is at 100 degrees or higher. Please report excessive heat to the operator immediately."

12. Towels

A clean sanitary towel shall be provided to all patrons using the tanning facility. A covered hamper or receptacle shall be provided for all soiled towels.

13. Floor Coverings

The operator shall inspect the facility to ensure that the floors are dry. Non -absorbent and non-carpeted flooring or rubber or plastic mats shall be in place where the patron enters or exits the bed. These shall be sanitized after each patron's use.

14. Owner's Manual

Each tanning facility shall have an owner's manual for each tanning device.

15. Single Patron Occupancy

Each assembly of tanning equipment shall be restricted for use by only one consumer at a time. No, person shall be permitted in any room where tanning equipment is operating, while someone else is tanning.

16. Policy of Prohibiting Animals

Dogs (except dogs providing assistance to individuals with physical handicaps) cats, birds, or other animals shall not be permitted in a tanning facility. This does not include fish in an aquarium, provided the aquarium is maintained in sanitary condition.

17. Operator

Operator means any person designated by the certificate holder for the facility to assist and instruct the public in the correct operation of the tanning facility: each tanning facility shall have on duty at all times during operation an operator trained in the correct operation of the facility so as to be able to inform and assist the public in its proper use. The trained operator should possess a certificate of training from an approved training program.

ENFORCEMENT

1. The Wheeling-Ohio County Department shall have the authority to enter and inspect a tanning facility to determine compliance. Routine inspections will be conducted at least twice a year.
2. Enforcement of this article shall be implemented by the Wheeling-Ohio County Health Officer, or his or her designee.
3. Notice of the provisions set forth in this article shall be given applications for tanning facilities certificates in Ohio County, West Virginia.
4. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Wheeling-Ohio County Health Department.

VIOLATIONS AND PENALTIES

1. Under age use of tanning facilities
 - a. Any owner of a tanning facility who fails to obtain parental or legal guardian consent for a minor under the age of eighteen or willfully allows persons under the age of fourteen to use the tanning facilities is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined \$100.00.
 - b. For a second offense, the owner is guilty of a misdemeanor and upon the conviction thereof, shall be fined not less than \$250.00 nor more than \$500.00
 - c. For third offense or subsequent offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00 nor more than \$1000.00.
2. Operation and design
 - a. Any person who violates any provision of this regulation is guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$200.00.
 - b. Each Day's failure to comply with applicable provision of this rule constitutes a separate offense.

ADMINISTRATIVE DUE PROCESS

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so as prescribed in the division of health administrative rule, Rules of Procedure for contested Case Hearings and Declaratory Rulings, 64CSR1.

EFFECTIVE DATE

The provisions of this Regulation are effective following approval by the Wheeling-Ohio County Board of Health on January 10, 2017.