

**Utah County Health Department
Health Regulations**

For

Commercial Tanning Facilities

REGULATION 2010-01

Adopted by the Utah County Board of Health

March 22, 2010

Under Authority of Utah Code 26A-1-121

UTAH COUNTY HEALTH DEPARTMENT
Regulation governing Commercial Tanning Facilities

1.0 Purpose

The purpose of this regulation is for the maintenance and use of ultraviolet tanning devices intended to more fully protect public health and welfare, promote health education, and prevent the spread of disease. This regulation incorporates by reference the Utah Department of Health's "Indoor Tanning Bed Sanitation" rule, R392-700 of the Utah Administrative Code, and adds provisions clarifying the Utah County Health Department's regulatory authority, define administrative procedures, and establish fees to cover health department services.

Text of Proposed Regulation

A. The requirements as found in the Utah Department of Health Indoor Tanning Bed Sanitation rule, R392-700 is incorporated by reference with the following amendments:

2.0 Definitions

- 2.1 **Compatible bulb:** A UV producing bulb that has been deemed by the bulb manufacturer as a replacement for the bulb(s) listed on the tanning device.
- 2.2 **Compatibility Chart:** A chart provided by the bulb manufacturer that lists the bulb as the type intended for use in that device and is of the same spectral UV distribution as the bed manufacturer intended.
- 2.3 **Device Labeling:** The labeling required on a tanning device listing the name and make of the device, compatible bulbs, recommended exposure schedule, and the exposure warning label, (as referenced in 21 C.F.R . 1010.3) and derived by the manufacturer in conjunction with the FDA.
- 2.4 **Director:** The Utah County Health Department Director or his/her authorized representative.
- 2.5 **Operator:** Any person who owns, leases, or manages a business operating a tanning facility or his designee.
- 2.6 **Remote Timer:** A tanning bed timing device located outside of the room accessible only to the operator.

3.0 Jurisdiction of the Utah County Health Department

- 3.1 Under authority granted in Section 26A-1-114 of the Utah Code Unannotated, 1998, the Utah County Health Department (UCHD) has jurisdiction in promoting and protecting the health and wellness of the public, enforcing state and local laws, investigating causes of disease affecting the public health, operating reasonable health programs for the promotion and protection of public health and

control of disease, and in the abatement of nuisances.

- 3.2 Under authority granted in Section 26A-1-114 of the Utah Code Unannotated, 1998, the Utah County Board of Health has the authority and power to adopt rules, regulations, and standards necessary for the promotion of public health, environmental health quality, injury control and the prevention of disease.

4.0 Powers and Duties

The Director shall be responsible for the administration of these rules and regulations and any other powers vested in it by law and shall:

- 4.1 Require the submission of reports, plans, and specifications for tanning facilities or equipment as necessary to implement the provisions, requirements, and standards of these regulations;
- 4.2 Issue permits and charge fees as necessary to implement the provisions, requirements, and standards of these regulations;
- 4.3 Make inspections of any tanning facility or site and issue orders as necessary to effect the purposes of these regulations;
- 4.5 Take samples and make analyses of any material or require the sampling and analysis of any materials;
- 4.5 Do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

5.0 Facility Permits

- 5.1 No person shall operate a tanning facility without written approval and a corresponding valid operational permit from UCHD.
- 5.2 Application requirements for approval and permit.
- A. To apply for a permit, a person shall:
1. Submit a completed application to UCHD on forms provided by UCHD; and
 2. Pay the application fee to UCHD; and
 3. Provide, as part of the application, the following information:
 - 3a. The address and telephone number of the tanning facility;
 - 3b. The name, address, and telephone number of the owner(s) and manager(s);
 - 3c. The number and location of toilets and hand washing facilities;
 - 3d. The hours of operation of the tanning facility;
 - 3e. The number of employees;
 - 3f. The equipment and materials that will be used including the number and type of tanning devices;

- 3g. The methods of sterilization or sanitizing equipment;
- 3h. The information to be provided to tanning patrons in accord with the requirements outlined in R392-700-5; and
- 3i. Any other information specifically requested by UCHD to ensure compliance with these regulations.

- B. Applications shall be made prior to commencement of operation of the tanning facility.
- C. UCHD shall be notified, in writing, within 20 calendar days of changes in the information supplied to UCHD as pertains to items 5.2.A.(3) above.
- D. Upon approval of the permit application and payment of the required fee, UCHD shall issue a permit.
- E. A permit issued under this section expires annually and may be renewed upon application to UCHD, payment of the established renewal fee, and compliance with the requirements of any applicable regulations.

5.3 Permit Fees

- A. The fee for each permit shall be paid to UCHD at the time of application. It shall be based upon the reasonable expenses incurred by UCHD to review plans and specifications, conduct inspection(s), and act upon the permit application. The annual fee for a tanning facility shall be set by the Utah County Board of Health.
- B. A late fee in addition to the annual permit fee may be charged to individuals who allow their annual permit to expire and subsequently re-apply.

5.4 Permits Nontransferable

- A. No permit shall be transferable from one person to another or from one tanning facility to another.

5.5 Denial, suspension, or revocation of permit

- A. Causes: Any permit applied for or issued pursuant to these regulations may be denied, suspended, or revoked by the Director for any of the following reasons:
 - 1. Failure of the reports, plans or specifications to show that a tanning facility will be operated or maintained in accordance with the requirements and standards of these rules and regulations adopted by UCHD;
 - 2. Submission of incorrect or false information in the application, reports, plans, or specifications;
 - 3. Failure to operate or maintain the tanning facility in accordance with the application, report, plans, and specifications approved by UCHD;

4. Operation of the tanning facility in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
5. Violation of any rules, regulations, restrictions, or requirements adopted by UCHD;
6. Violation of any condition upon which the permit was issued;
7. Failure to pay the permit fee;
8. Failure of the owner or operator of the tanning facility to permit or allow UCHD to conduct inspections during normal business hours to determine compliance with these regulations;
9. Failure of any tanning facility employee to have a valid certification as required by this regulation.

6.0 Construction of Tanning Facilities

6.1 Ambient air temperature shall be verified by the placement of thermometers in each tanning room.

6.2 Tanning Devices

- A. Tanning equipment compliance shall be based upon the standard in effect at the time of manufacture shown on the device identification label (as required by 21CFR 1010.3).
- B. For any tanning equipment installed after January 2005 a remote timer shall be used to operate the tanning device.
- C. No timer interval shall have an error greater than 10 percent of the maximum timer interval of the product. The timer shall not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle, when emission from the sunlamp product has been terminated.
- D. The booth shall meet the National Fire Protection Association's National Electrical Code. There shall be ground fault protection on the electrical circuit if within 6 feet of water.
- E. When the replacement bulb used is not listed on the bed label, a compatibility chart provided by the bulb manufacturer shall be posted near the bed.

7.0 Cleaning and Maintenance

7.1 If rooms are carpeted then a nonporous sanitizable mat shall be placed in front of each bed or booth.

7.2 A patron shall be given the option to re-clean the equipment and eye protection if they so desire prior to their use after the sanitization is performed by a facility

operator. The ultraviolet light produced by the tanning device is not an adequate sanitizing agent.

8.0 Operation

- 8.1 All tanning must be done under the supervision of a certified operator available during business hours.
- 8.2 A written report of any tanning injury shall be forwarded to UCHD within 5 working days of the operator becoming aware of its occurrence. For the purpose of these regulations, a tanning injury is: 1) An injury for which professional medical advice or attention is either sought or needed, or 2) a suspected injury which is reported to the tanning facility operator/employee by the patron. The report shall include:
 - A. The name and address of affected individual(s).
 - B. The name and location of the tanning establishment involved;
 - C. The nature of the injury; and
 - D. Any other information considered relevant to the situation.
- 8.3 Before a person under 18 years old uses any tanning equipment or facility, the person shall provide the tanning facility operator a consent form signed by the parent or guardian of the person in the presence of the facility operator to ensure authenticity and consent. The parent or guardian shall have been provided with the basic information required in Section R392-700-6 prior to allowing the person to use the tanning equipment.
- 8.4 Every person who is responsible to provide tanning information to the public, request signatures, or operate tanning equipment as required in Section R392-700-6 shall obtain a valid individual tanning certification from UCHD before doing this work. This certification shall be granted only to those persons who have paid the fee established by UCHD, and successfully passed a written examination approved by UCHD. This certification shall expire three years from date of issuance. The fee for such certification shall be set by the Utah County Board of Health.
- 8.5 Any tanning facility employee's certification may be revoked by the Director upon receipt of evidence that the certificate holder has violated required procedures and practices covering tanning facility operations as outlined in these regulations.
- 8.6 In addition to the posting of a warning sign under R392-700-4, a warning sign shall be posted in the immediate proximity of each tanning station. Each sign shall be readily legible and visible, and contain the following information:
 - A. WARNING, ULTAVIOLET RADIATION
 - B. PROTECTIVE EYEWEAR MUST BE WORN WHILE TANNING
 - C. FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES

9.0 Enforcement and Penalties

- 9.1 If the Director has inspected any property or tanning facility and has found and determined that the property or tanning facility is in violation of these regulations, or has reasonable grounds to believe that there has been a violation of any part of these regulations, he shall give written notice of the violation(s) to the operator(s), owner(s), or other responsible person(s) thereof.
- 9.2 Prior to initiating a court complaint for the violation of these rules and regulations, the Director shall issue a notice pursuant to Section R392-700-11 and shall:
- A. Describe the violation;
 - B. Give a statement of the cause for its issuance;
 - C. Set forth and outline of the remedial action that complies with the provisions of these regulations; and
 - D. Set a reasonable time for the performance of any required remedial act.
- 9.3 It shall be the duty of the Director, upon the presentation of proper credentials, to make inspections of any tanning facility to ensure compliance with these regulations.
- 9.4 UCHD inspection may be made with the consent of the operator(s) or other responsible person(s). If consent is not granted, a search may be made pursuant to an administrative search warrant issued by a court of competent jurisdiction.
- 9.5 The operator(s) or other responsible person(s) of any property, upon request, shall receive a report setting forth all facts found that relate to his compliance status.
- 9.6 During said inspection a tanning device may be closed by the posting of a departmental sign upon the device for:
- A. Cracked, broken, or missing barrier from the bulbs,
 - B. Damaged electrical connection,
 - C. Incompatible bulb use
 - D. Lack of required labels on beds
 - E. Anything found to be associated with the bed that poses an imminent health risk.
- 9.7 Each day such violation is committed or permitted to continue shall constitute a separate violation.
- 9.8 The city attorney or the county attorney as appropriate, may initiate legal action civil or criminal, requested by UCHD to abate any condition that exists in violation of these rules and regulations.
- 9.9 In addition to other penalties imposed by the court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by UCHD in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard, or sanitation

violation.

10.0 Right to Appeal

10.1 Within 10 calendar days after UCHD has given a notice of violation(s), or recommended that a permit or certification be denied, suspended or revoked, the aggrieved person(s) may request in writing a hearing before UCHD. The hearing shall take place within 10 calendar days after the request is received. A written notice of the Director's final determination shall be given within 10 calendar days after adjournment of the hearing. The Director may sustain, modify, or reverse the action or order.

11.0 Severability

11.1 If any provision, clause, sentence, or paragraph of these rules and regulations or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of these rules and regulations. The valid part of any clause, sentence, or paragraph of these regulations shall be given independence from the invalid provisions or application and to the end the provisions of these regulations are hereby declared to be severable.

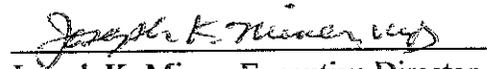
12.0 Authority and Effective Date

Adoption of this regulation is authorized by Utah Code 26A-1-121. This regulation becomes effective upon approval by the Utah County Board of Health.

Approved and adopted 03/22/2010



Jerry C. Washburn, Chair
Utah County Board of Health



Joseph K. Miner, Executive Director
Utah County Health Department