

Regulations pertaining to Tanning Facilities in Howard County, Maryland

BE IT ADOPTED BY THE HOWARD COUNTY BOARD OF HEALTH THAT:

.01 Scope

Pursuant to the authority conferred upon the Howard County Board of Health by Section 12.101 of the Howard County Code and the express power given to local Boards of Health by the Code of Maryland, Health-General Article §3-202(d), the following regulations are hereby established as minimum requirements for the operation of tanning facilities located in Howard County. These regulations include certain provisions of COMAR 10.52.06, adopted by the State of Maryland, Department of Health and Mental Hygiene, effective June 29, 2009 and as amended from time to time.

.02 Findings

WHEREAS, Approximately 1,000,000 Americans are stricken with skin cancer, a potentially deadly disease and the most common of all types of cancer; and

WHEREAS, The International Agency for Research on Cancer (IARC) in June 2009 declared tanning devices as carcinogenic to humans (i.e., causing cancer in humans).

WHEREAS, The United States Department of Health & Human Services has declared ultraviolet (UV) radiation from the sun and artificial sources, such as indoor tanning devices, as a known carcinogen (cancer-causing substance); and

WHEREAS, The United States Food and Drug Administration and other organizations estimate that, on average, more than 1,000,000 people in the United States visit tanning facilities each day; and

WHEREAS, More than 2,300,000 teenagers use indoor tanning devices each year, and more than 25% of American teenagers have used tanning booths three or more times; and

WHEREAS, Use of an indoor tanning device before the age of 35 increases the risk of melanoma (the most deadly type of skin cancer) by 75%; and

WHEREAS, 58% of adolescents who used indoor tanning devices in a national study reported burns from indoor tanning; and

WHEREAS, The World Health Organization and the American Academy of Dermatology has declared that no person under the age of 18 years should use indoor tanning devices; and

WHEREAS, In national studies, use of indoor tanning devices by minors stayed the same despite an increase in the number of states that restrict (but not ban) teen use of tanning devices; and

RESOLVED, That it is in the public interest to protect children by prohibiting minors' access to indoor tanning devices as well as regulate the sanitary conditions and operation of tanning facilities.

.03 Purpose.

The Howard County Board of Health finds and declares that overexposure to the ultraviolet radiation emitted from tanning devices is a danger to public health, especially the health of young people. Registering and regulating the operation of tanning facilities is in the best interest of all County residents.

.04 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter.

- a. "Approved training" means a training program recognized by the tanning industry that at a minimum includes the following topics: the operation and maintenance of equipment and safety aids; need and use of protective eyewear; skin typing; identification of potential photosensitizing drugs and other factors used to determine a customer's exposure time; UV radiation and its effect on the skin and eyes; and applicable state and federal laws and regulations pertaining to the operation and use of a tanning device including 21CFR1040.20.
- b. "Customer" means a member of the public who is provided access to a tanning device in exchange for a fee, membership dues, or other compensation.
- c. "Physician" means a medical doctor duly licensed by the Maryland Board of Physicians.
- d. "Health Officer" means the Howard County Health Officer or the Health Officer's designee.
- e. "Tanning device" means any equipment that emits radiation used for tanning of the skin, including sunlamps, tanning booths, or tanning beds and any accompanying equipment, such as protective eyewear, timers, and handrails.
- f. "Tanning facility" means any place where a tanning device is used for a fee, membership dues, or other compensation. For the purpose of this definition, tanning devices registered to different persons at the same location and tanning devices registered to the same person, but at separate locations, shall constitute separate tanning facilities.
- g. "Minor" means an individual younger than 18 years old.
- h. "Owner" means an individual or entity having an ownership interest in a tanning facility.

- i. "Person-in-charge" means an owner, operator, manager, attendant, employee, or other person who controls, governs, or directs the activities of a tanning facility and is present on site.
- j. "Radiation" means ultraviolet radiation.

.05 Exclusions.

This chapter does not apply to tanning devices:

- a. Used exclusively for the tanning of non-human skin; or
- b. Used exclusively for medical phototherapy in a physician's office; or
- c. Owned and used by any person exclusively for personal, noncommercial use.

.06 Standard for tanning devices.

- a. Any tanning device and eye protection used by a tanning facility shall comply with the requirements of Code of Federal Regulations, Title 21 Food and Drugs, Section 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.
- b. The owner or person-in-charge shall maintain on site current manufacturer specifications and recommended maximum exposure time for each and every tanning device in use in the tanning facility on site and shall make such specifications available to the Health Officer upon request.

.07 General

- a. All floors, walls, and ceilings shall be kept clean and in good repair.
- b. Auxiliary lighting providing at least 20 foot-candles of light shall be provided during cleaning times.
- c. If linens are provided, separate storage shall be provided so that clean materials are not kept in the same location as dirty or used materials.
- d. Hooks or lockers shall be provided in each tanning room for patrons to store their clothes while using the facility.
- e. There must be at least one (1) person-in-charge for each ten (10) beds or fraction of ten (10) beds.

.08 Bathrooms

- a. At least one bathroom shall be provided at each facility for patron use.
- b. The following fixtures shall be provided:
 - 1. Lavatory.
 - 2. Water Closet.
 - 3. Soap Dispenser.
 - 4. Towel Dispenser for Individual Disposable Hand Towels.
 - 5. Toilet Tissue Rack.
- c. Bathroom(s) shall be kept clean and sanitized.
- d. Fixtures shall be maintained in proper working order.
- e. A supply of toilet tissue, hand towels and hand soap shall be provided at all times. Easily cleanable receptacles shall be provided for waste materials.
- f. Whenever there are practical difficulties involved in the complying with Regulation .08, the Health Officer shall have the authority to waive any requirements for individual cases, provided that the Health Officer first finds that the waiver does not result in an unsafe or unsanitary condition in the tanning facility.

.09 Sanitization and Cleaning

- a. The tanning beds and any protective eyewear provided to customers shall be sanitized by the person-in-charge with a manufacturer recommended sanitizer after each use.
- b. The tanning facility shall be kept clean at all times.

.10 Registration Required.

- a. It is unlawful for any person to operate a tanning facility without registering with the Health Officer under this chapter.
- b. An owner must register each location for which it operates a tanning facility and maintain this registration in accordance with this chapter.

- c. Should any information submitted with the application change, the owner of the tanning facility shall provide the Health Officer with updated information within thirty (30) days of the change. A new owner may operate an existing tanning facility provided the change in ownership is submitted to the Health Officer within the time prescribed by this section.

.11 Application for Registration.

- a. In general. A person who wants to operate a tanning facility shall submit to the Health Officer:
 - 1. An annual registration form prescribed by the Health Officer; and
 - 2. An annual registration fee established by Regulation .22.

.12 Registration; Display.

An owner or person-in-charge must display the registration conspicuously in the tanning facility.

.13 Right of inspection.

The Health Officer may inspect any tanning facility whenever it is open to the public for business to determine whether the tanning facility meets the requirements of this chapter.

.14 Warnings and Posting of Signs.

- a. A person in charge shall give a written warning statement to each customer prior to beginning each tanning session.
- b. The customer shall sign a written statement that the customer:
 - 1. has read and understood the warnings before using the tanning device; and
 - 2. agrees to use protective eyewear while using the tanning device.
- c. The warning statement shall:
 - 1. be on a form that the Health Officer requires; and
 - 2. details the standards for melanoma detection defined by the American Academy of Dermatology and other health organizations; and
 - 3. inform customers that:

- i. using the protective eyewear that the tanning facility provides will help avoid damage to the eyes.
 - ii. overexposure causes burns.
 - iii. repeated exposure may cause premature aging of the skin and skin cancer.
 - iv. abnormal skin sensitivity or burning may be caused by certain foods, cosmetics, tranquilizers, diuretics, antibiotics, high blood pressure medicines, and birth control pills.
 - v. any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.
- d. In the warning statement required under Regulation .14(c), a person-in-charge shall inform its customers:
 - 1. How much liability insurance it carries for injuries associated with tanning device usage such as skin and eye burns, alterations of immune system function, photo-aging, photo-induced medication reactions, and skin cancers.
 - 2. That it does not carry liability insurance for such injuries.
- e. The owner shall conspicuously post warning signs in locations visible to the public including any area(s) where a tanning device is used.
 - 1. The warning sign shall be at least 11 inches by 17 inches and the letters shall be at least 1/2 inch in height.
 - 2. The warning sign shall read: "Use of a tanning device may cause skin cancer and burns to the skin and eyes. Protective eyewear is required."

.15 Advertising and Promotions

The Health Officer is authorized to file a complaint with the Howard County Office of Consumer Affairs if he or she has reason to believe that any advertising by tanning facilities constitutes an unfair or deceptive trade practice.

.16 Use Requirements.

- a. Tanning facility. A tanning facility shall:
 - 1. Have a person-in-charge on duty whenever the facility is open for business.

2. Provide each customer with protective eyewear that meets the standards for tanning devices established under this chapter or allow customers to furnish and use their own personal protective eyewear.
 3. Not allow a customer to use a tanning device if that customer does not have protective eyewear in his/her possession or does not intend to use protective eyewear during tanning.
 4. Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer.
 5. Limit each customer to the maximum exposure time as recommended by the device manufacturer.
- b. Customer. When using a tanning device, a customer shall use protective eyewear either supplied by the tanning facility or by the customer.

.17 Training of a Person-in-Charge

- a. The owner shall ensure that there is a person-in-charge on the premises when the facility is open.
- b. The owner of the tanning facility shall assure that each person-in-charge has completed an approved training.
- c. The owner shall maintain a log on the premises containing the name of each person-in-charge and the approved training that each has completed together with a training certificate or any documentation indicating that the person-in-charge has completed the approved training.
- d. Upon request by the Health Officer, a person-in-charge shall provide full access to the training log, the training certificate and all documents related to staffing and training.

.18 Injury report.

- a. Injury report.
 1. Tanning facility. A tanning facility shall file and keep on the premises a report on any injury, or any complaint of injury on a form that the Health Officer requires; and
- b. The reporting form shall include the following information:
 1. Date of suspected injury.

2. Date injury was reported to the person-in-charge.
 3. Nature of injury.
 4. Name of facility.
 5. Address of facility.
 6. Name and address of injured party.
 7. Type of equipment involved.
- c. Upon request by the Health Officer, a person-in-charge shall provide full access to any and all injury reports.

.19 Tanning of Minors Prohibited

A minor shall not use a tanning device at a tanning facility at any time without a written prescription from the minor's physician specifying the nature of the medical condition requiring the treatment, the number of visits allowed, and the time of exposure for each visit.

.20 Verification of Age

The person-in-charge shall not allow a customer to use a tanning device at a tanning facility without confirmation, with a State or federal government-issued photo identification card, that the individual is not a minor unless the minor possesses a physician's prescription as required in Regulation .19.

.21 Record Keeping

- a. A tanning facility shall keep a record of each customer's use of a tanning device.
 1. Such records shall be safely preserved on the registered premises for two (2) years to insure accessibility for inspection by the Health Officer.
 2. The record shall include the following:
 - i. Visit date.
 - ii. Exposure time.
 - iii. Name of the Person-in-Charge.

- iv. Name and address of patron.
- v. Signed warning statements.
- vi. Any injury reports.
- vii. Any physician prescription meeting the requirements of Regulation .19.

.22 Registration Fee for Tanning Facilities.

New Tanning Facility Registration	\$ 65.00
Renewal Tanning Facility Registration	\$ 40.00
Duplicate Registration	\$ 10.00
Filing a renewal application after registration expires	\$ 25.00 in addition to the Annual fee.

.23 Enforcement.

- a. Investigation.
 - 1. A person who believes that a violation of this chapter has occurred may file a complaint with the Health Officer who shall investigate the complaint.
 - 2. In the event the Health Officer has reason to believe that a person-in-charge has violated any provision of these regulations, the Health Officer is hereby authorized to initiate an investigation of such suspected violation.
 - 3. If the Health Officer determines that production of documents would assist in the investigation, the Health Officer or Board of Health may issue a subpoena for the production of documents. The Health Officer or Board of Health shall include in the request for a subpoena a statement setting forth the relevance of the documents requested to the investigation.
- b. Procedures. If the Health Officer determines that there are reasonable grounds to believe a violation has occurred, the Health Officer may commence with one or more of the following procedures, which the Health Officer deems appropriate:
 - 1. Compliance Agreement. Accept a written assurance of compliance or assurance of discontinuance on the terms and conditions that the Health Officer may deem appropriate. No such assurance of compliance or assurance of discontinuance shall constitute an admission by any party thereto that there has been a violation of any law or regulations.

2. The Health Officer or Board of Health may initiate any action at law or equity, including an injunction, to enforce the provisions of this subtitle.

.24 Existing Tanning Facilities

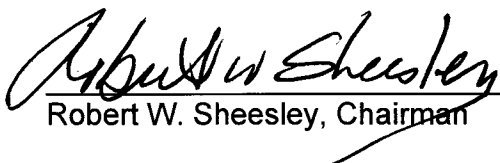
The owner of a tanning facility that is in operation on the effective date of this chapter shall register under Regulation .11 within thirty (30) days of the effective date of this chapter. Each person-in-charge of a tanning facility in operation on the effective date of this chapter shall complete an approved training program within ninety (90) days of the effective date.

.25 Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity shall not affect other provisions or any other application of this chapter which can be given effect without the invalid provision or application, and for this purpose the provisions of this chapter are severable.

Enacted by the Board of Health on: November 10, 2009

Effective Date: November 10, 2009

Signature: 
Robert W. Sheesley, Chairman