

R392. Health and Human Services, Population Health, Environmental Health.

R392-700. Indoor Tanning Facility Sanitation.

R392-700-1. Authority and Purpose.

(1) This rule is authorized by Sections 26B-1-202, 26B-7-402, and 26B-7-407.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of an indoor tanning facility, as defined by this rule, and provides for the prevention and control of hazards associated with indoor tanning that are likely to adversely affect public health and wellness including risk factors to injury, sickness, death, disability, and the spread of disease.

R392-700-2. Applicability.

This rule applies to a tanning facility where a member of the public is provided access to a tanning device. This rule does not apply to private use of a tanning device when operated exclusively for non-commercial use.

R392-700-3. Definitions.

As used in this rule:

(1) "Clean" means the condition of an object visibly free from dirt, soil stain, or other materials not intended to be a part of the object.

(2) "Department" means the Utah Department of Health and Human Services.

(3) "Guardian" means the parent of a minor, or a person who has qualified as a guardian of a minor pursuant to Title 75, Chapter 5, Part 2, Guardians of Minors.

(4) "Local health department" has the same meaning as provided in Subsection 26A-1-102(5).

(5) "Local health officer" means the health officer of the local health department having jurisdiction or the local health officer's designated representative.

(6) "Minor" means a person under 18 years of age.

(7) "Operator" means any person who, whether permitted or not, controls, operates, owns, or manages a tanning facility as defined, or any individual who has been designated by the operator as the person in charge.

(8) "Patron" means any person who enters a tanning facility with the intent to use a tanning device. In Section R392-700-5, the term "patron" includes a parent or guardian in the case of a minor.

(9) "Phototherapy device" has the same meaning as provided in Subsection 26B-7-407(1)(b).

(10) "Tanning device" has the same meaning as provided in Subsection 26B-7-407(1)(c).

(11) "Tanning facility" has the same meaning as provided in Subsection 26B-7-407(1)(d).

(12) "Timing Device" means a device that is capable of ending the emission of ultraviolet radiation from tanning device after a preset period.

(13) "Ultraviolet radiation" means electromagnetic radiation that has a wavelength interval of 200 nanometers to 400 nanometers in air.

R392-700-4. Warning Sign.

(1)(a) The operator shall post a warning sign that meets the requirements of Subsection (2) in a conspicuous location that is readily visible to a person who intends to use a tanning device.

(b) The operator shall place the warning sign so that the patron is alerted to the hazard and informed before being exposed to UV radiation.

(c) 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 floor level at the reception or sales counter area.

(2) The operator shall ensure that:

(a) the warning sign required in Subsection (1) is in a landscape format 11 inches high by 17 inches wide on a white background;

(b) warning sign lettering is in Arial font as produced in Adobe Acrobat, and the letters are:

(i) black in color;

(ii) uppercase; and

(iii) adequately spaced and not crowded;

(c) the top of the sign includes a panel that is safety orange in color and:

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

(ii) includes the word, "warning" in capital letters that are 80 points in size; and

(iii) has an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word, "warning";

(d) the safety alert symbol is black with a yellow field;

(e) the word, "warning" and the symbol are vertically and horizontally centered within the orange panel;

(f) immediately below the orange panel appear the words, "UV radiation health risk" in letters that are 61 points in size and centered between the vertical margins;

(g) the vertical space between the "warning" panel and the top of the words, "UV radiation health risk" is about 1.6 centimeters;

(h) 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 (2)(j) are about 1.6 centimeters;

(i) beneath the "UV radiation health risk" line appear the body wording of the sign in letters that are 39 points in size;

(j) the body of the sign includes the following four statements:

(i) "Tanning devices may cause severe eye and skin damage, and may cause cancer;"

(ii) "Talk to a doctor if you are pregnant or on oral contraceptives or other drugs;"

(iii) "Wait at least 48 hours before tanning again;" and

(iv) "In person written consent by parent or legal guardian or physician's written order is required for any person under 18 years for each tanning session;"

(k) the vertical spacing between each of the bulleted statements is about 1.6 centimeters;

(l) the margins to the right and left of the bulleted statements are no less than 4.4 centimeters; and

(m) the vertical spacing between the last bulleted statement and the bottom margin of the paper is no less than two centimeters.

(3) A local health officer may add additional warning requirements that apply to each patron.

R392-700-5. Written Health Risk Warning Notice, and Signed Consent.

(1) The operator shall prohibit a minor from using a tanning device except if the minor:

(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 guardian who signs a written consent form authorizing the minor to use the tanning device.

(2) The parent or guardian of a minor is not required to remain at the tanning facility during the minor's use of a tanning device.

(3) The operator may not allow a minor to exceed a physician's order for tanning in either frequency or duration of a tanning session.

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

(5) Before using a tanning device, the patron shall provide proof of age to the operator.

(6) Before the patron's use of a tanning device, the operator shall provide the patron with the information listed under Subsection (7).

(7) Upon a patron's initial visit to the tanning facility and annually thereafter, the operator shall:

(a) provide the patron with a written paper health risk warning notice containing the health risk information listed in Subsection (8);

(b) provide the patron an opportunity to read the notice and ask questions;

(c) have the patron sign and date the notice to signify that the patron has read and understands; and

(d) give the patron a copy of the notice.

(8) The health risk warning notice required in subsection (7)(a) shall include:

(a) a representative list of potential photosensitizing drugs and agents;

(b) a statement on the importance of consulting a physician before tanning if the patron:

(i) is taking certain medicines;

(ii) has a history of skin problems;

(iii) is pregnant; or

(iv) is sensitive to sunlight;

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

(i) the increased risk of skin cancer and increased risk for patrons with:

(A) health problems who sunburn easily;

(B) a family history of melanoma; or

(C) frequent cold sores;

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

(iii) the possible adverse effect on some viral or medical conditions, like lupus, when using a tanning device;

(d) information on:

(i) how to determine skin sensitivity;

(ii) how different skin types respond to different tanning devices;

(iii) the importance of adhering to the time limit the manufacturer recommends for each skin type;

(iv) how ultraviolet-A (UVA) and ultraviolet-B (UVB) affect the human body;

(v) the required use of proper protective eyewear with both UVA and UVB systems, and a statement that closing the eyes is not sufficient to prevent possible eye damage;

(vi) the use of protective eyewear including the possibility of eye damage if the eyewear is not used;

- (vii) the tanning device manufacturer's recommendations on how to properly use eyewear while using the tanning device;
 - (viii) the capacity of each tanning device, including proper exposure time and intensity;
 - (ix) the risk of tanning too frequently and on over exposure including advice to space tanning sessions 48 hours apart;
 - (x) the typical amount of time for a sunburn to develop;
 - (xi) the inadvisability of tanning during pregnancy; and
 - (xii) additional relevant medical considerations as determined by the local health officer; and
 - (e) how to contact the local health department to get additional information.
- (9) The operator shall keep each signed patron consent form at the tanning facility and shall make the forms readily available for review by the local health officer upon request.

R392-700-6. Tanning Devices.

(1)(a) The operator shall use only commercially available tanning devices manufactured and certified in compliance with 21 CFR 801.4, 21 CFR 1010.2, 21 CFR 1010.3, and 21 CFR 1040.20.

(b) The operator shall follow the manufacturer's safety instructions applicable to each tanning device.

(2) The operator shall:

(a) maintain at the tanning facility the manufacturer's operating instructions, exposure recommendations, and safety instructions for each tanning device;

(b) 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;

(c) control the temperature of each body contact surface of a tanning device and the surrounding area to ensure that the surface does not exceed 100 degrees Fahrenheit;

(d) maintain each tanning device in good repair;

(e) provide a physical barrier to protect a patron from possible injury that could occur by touching or breaking a tanning device lamp;

(f) provide a physical barrier or other method, such as a handrail or floor marking to show the patron the proper exposure distance between an ultraviolet lamp and the patron's skin;

(g) replace each defective or burned-out lamp or filter with a lamp or filter that is clearly identified by brand and model designation by the lamp or filter manufacturer;

(h) maintain lamp manufacturer's labeling and user instructions at the tanning facility that demonstrate the compatibility equivalence of any replacement lamp or filter;

(i) 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;

(j) ensure that each tanning device allows a patron to exit the tanning device without assistance from the operator;

(k) 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;

(l) provide a separate enclosed tanning area for each tanning device that ensures patron safety and privacy; and

(m) ensure that only one person enters an enclosed tanning area during a tanning session;

(3) The operator may not:

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

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

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

(d) 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; and

(e) allow an animal, except for a service animal, to be in an enclosed tanning area during a tanning session.

R392-700-7. Protective Eyewear.

The operator shall ensure that:

(1) protective eyewear is offered to each patron before each tanning session;

(2) each patron is instructed on proper use of protective eyewear and warned of possible damage to the eyes if the protective eyewear is not worn;

(3) provided protective eyewear is compatible with the tanning device being used;

(4) reusable protective eyewear is cleaned and disinfected with an EPA registered disinfectant after each use; and

(5) a service animal allowed in an enclosed tanning area is provided with protective eyewear.

R392-700-8. Construction and Maintenance Requirements.

The operator shall ensure that:

(1) a restroom is provided for patron use that includes:

(a) a flushing toilet;

(b) a handwashing sink with hot and cold running water; and

(c) hand soap and single use hand drying towels or a hand drying mechanism;

- (2) each floor and wall in the toilet room and handwashing area is constructed of smooth, non-absorbent material;
- (3) each tanning facility area is properly ventilated;
- (4) the internal ambient air temperature of the facility does not exceed 85 degrees F;
- (5) each tanning facility room is capable of being illuminated to allow for proper cleaning and sanitizing; and
- (6) the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.

R392-700-9. Tanning Facility Sanitation.

(1) The operator shall maintain walls, floors, ceilings, restrooms, and equipment of a tanning facility in good repair and in a clean and sanitary condition.

(2) The operator shall clean each body contact surface of a tanning device, including each seating surface and doorknob:

- (a) before each use;
 - (b) using a detergent or other agent able to emulsify oils and hold dirt in suspension; and
 - (c) using a concentration as indicated by the chemical manufacturer's use directions included on the product label;
- (3) The operator shall sanitize each body contact surface of the tanning device, including each seating surface and doorknob:

- (a) before each use;
 - (b) with a chlorine sanitizer or a quaternary ammonia compound; and
 - (c) using a concentration as indicated by the chemical manufacturer's use directions included on the product label.
- (4) The operator may use a single product to both clean and sanitize if that product meets the requirements of

Subsections (2) and (3) for the cleaning and sanitizing of body contact surfaces of the tanning device.

(e) If the operator cleans a body contact surface of a tanning device in a separate process from sanitizing the surface, the operator shall clean the surface before sanitizing it.

- (5) The operator shall wash and dry towels and other linens between each use.

R392-700-10. Permit Requirements.

(1) A tanning facility may not operate unless the operator has first obtained a permit to operate from the local health department having jurisdiction.

(2) To get a permit, the operator shall complete an application provided by the local health department and pay the associated fee. A permit, unless revoked, is valid for one year.

(3) Before the tanning facility is eligible for a permit, the operator shall demonstrate to the local health officer that:

- (a) the tanning facility can meet the requirements of Sections R392-700-4, R392-700-6, and R392-700-8; and
- (b) the facility has the systems in place to meet the requirements of Sections R392-700-5, R392-700-7, and R392-700-

9.

(4) The operator shall be able to demonstrate to the local health officer, initially and upon subsequent inspections, that the operator has sufficient knowledge to safely operate each tanning device in accordance with manufacturer's directions.

R392-700-11. Enforcement and Penalties.

(1) A person who violates a requirement of this rule that is also a requirement of Section 26B-7-407 may be subject to a class C misdemeanor, and revocation of the permit described in Section R392-700-10.

(2) A person who violates a requirement of this rule that is not also a requirement of Section 26B-7-407 is subject to a civil penalty as provided in Section 26B-1-224.

R392-700-12. Severability.

If any provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision of the application.

KEY: tanning beds, indoor tanning, sanitation, ultraviolet light safety

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