

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Chapter 30D (16 **Del.C.** Ch. 30D)

**FINAL**

**4454 Tanning Facilities Regulations**

**ORDER**

**Nature of the Proceedings**

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the *State of Delaware Regulations Governing Tanning Facilities*. The DHSS proceedings to adopt the regulations were initiated pursuant to 29 **Del.C.** Ch. 101 and authority as prescribed by 16 **Del.C.**, Ch. 30D.

On February 1, 2010 (Volume 13, Issue 8), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** §10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by March 2, 2010, or be presented at a public hearing on February 23, 2010, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

No oral comments were made at the public hearing and no written comments were received during the public comment period. Therefore, no evaluation or summarization of comments is presented in the accompanying "Summary of Evidence."

**Findings of Fact**

There were no public comments received and only minor non-substantive changes were made to the proposed regulations. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

**THEREFORE, IT IS ORDERED**, that the proposed *State of Delaware Regulations Governing Tanning Facilities* are adopted and shall become effective April 10, 2010, after publication of the final regulation in the *Delaware Register of Regulations*.

Rita M. Landgraf, Secretary

**Summary of Evidence**

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing Tanning Facilities were published in the *Delaware State News*, the *News Journal* and the *Delaware Register of Regulations*. No oral comments were received at the February 23, 2010 public hearing and no written comments were received on the proposed regulations during the public comment period (February 1, 2010 through March 2, 2010).

Only minor grammatical corrections were made to further clarify the proposed regulations.

The public comment period was open from February 1- March 2, 2010.

Verifying documents are attached to the Hearing Officer's record. The regulation has been approved by the Delaware Attorney General's office and the Cabinet Secretary of DHSS.

**4454 Tanning Facilities Regulations**

**1.0 Definitions**

The following words and terms, when used in this regulation, shall have the meaning set forth in 16 **Del.C.** § 3002D: "Customer", "Department", "Minor", "Operator", "Person", "Tanning equipment or device", "Tanning facility".

## **2.0 Requirements of a Consent Form:**

2.1 The consent form to be used by a tanning facility shall include the following model language:

### WHAT YOU SHOULD KNOW ABOUT TANNING:

#### AVOID UNNECESSARY EXPOSURE:

Repeated exposure may cause skin cancer and premature aging of the skin. As with natural sunlight, overexposure to ultraviolet light can cause burns, eye and skin injury, and allergic reactions. A person with a family or past medical history of skin cancer should avoid the use of a tanning device.

#### ULTRAVIOLET RADIATION SENSITIVITY

Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain cosmetics, foods or medications (including, but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines or birth control pills). A person taking a prescription or over the counter drug should consult a physician before the use of a tanning device. A person with skin that burns easily in the sun or does not tan in the sun should avoid the use of a tanning device.

#### PROTECTIVE EYE WEAR

Failure to use protective eyewear may result in severe burns or long-term injury to the eye.

2.2 A model consent form that a tanning facility may use is found at Appendix A.

## **3.0 Records**

A tanning facility shall maintain at the facility records of consent forms for all minor customers for a period of at least 3 years from the date of signature on the consent form. The tanning facility shall make records of consent forms available, upon request, for review by the Department.

## **4.0 Compliance and Enforcement Procedures**

### 4.1 Administrative Penalties

Whoever violates a provision of these regulations shall be subject to an administrative penalty of \$250.00 for the first violation, \$500[.00] for the second violation and \$1,000[.00] for the third and all subsequent violations.

### 4.2 Right to Administrative Hearing

Upon due notice that the Department intends to assess a tanning facility an administrative penalty, as indicated in section 4.1, the facility may submit to the Department, within thirty (30) days of the date of the notice of intent, a written request for an administrative hearing.

### 4.3 Orders of the Department

Whoever refuses, fails or neglects to perform the duties required under these regulations or violates, neglects or fails to comply with the duly adopted regulations or orders of the Department, shall be fined not less than \$100.00 and not more than \$1,000.00, together with costs, unless otherwise provided by law.

## **5.0 Severability**

In the event a particular clause or section of these regulations should be declared invalid or unconstitutional by a court of competent jurisdiction, the remaining portions of these regulations shall remain in full force and effect.

**Appendix A: Model Consent Form**  
**TANNING FACILITY**  
**PARENT/GUARDIAN CONSENT FORM**

**Delaware law states that a tanning facility may not allow a minor between the ages of 14 to 18 years to use a tanning device unless the minor provides a consent form signed by the parent or legal guardian at the time of first exposure, and the signature of the consent form is witnessed by an operator. (DE Code, Title 16, Chapter 30(D): Tanning Facilities).**

WHAT YOU SHOULD KNOW ABOUT TANNING:  
AVOID UNNECESSARY EXPOSURE:

Repeated exposure may cause skin cancer and premature aging of the skin. As with natural sunlight, overexposure to ultraviolet light can cause burns, eye and skin injury, and allergic reactions. A person with a family or past medical history of skin cancer should avoid the use of a tanning device.

ULTRAVIOLET RADIATION SENSITIVITY

Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain cosmetics, foods or medications (including, but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines or birth control pills). A person taking a prescription or over the counter drug should consult a physician before the use of a tanning device. A person with skin that burns easily in the sun or does not tan in the sun should avoid the use of a tanning device.

PROTECTIVE EYE WEAR

Failure to use protective eyewear may result in severe burns or long-term injury to the eye.

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CONSENT

I have read and understood the above stated facts about tanning.

I am the \_\_\_\_\_ parent or \_\_\_\_\_ legal guardian (check one) of \_\_\_\_\_  
\_\_\_\_\_ a minor between the ages of 14 and not yet 18 years of age.  
(Please print name of minor)

My child and I have been given adequate instruction in the operation of tanning devices.  
My child and I have read and understand the contents of this form.  
I give consent for my child to use the tanning devices in this facility.

Signature of parent/legal guardian \_\_\_\_\_ Date \_\_\_\_\_  
Print name of parent/legal guardian \_\_\_\_\_  
Signature of operator \_\_\_\_\_ Date \_\_\_\_\_  
Print name of operator \_\_\_\_\_

**The minor's parent or legal guardian may withdraw this consent form at any time. Unless so withdrawn, this consent form shall expire one year from the date of the signature.**  
13 DE Reg. 1330 (04/01/10)