



BOARD OF HEALTH

Deborah A. Chouinard RNC, MSN
Karen Gwozdowski Gauvin
Richard J. Kirejczyk

TOWN OF GRAFTON

GRAFTON MEMORIAL MUNICIPAL CENTER
30 PROVIDENCE ROAD
GRAFTON, MA 01519

(508) 839-5335 x 119 * Fax: (508) 839-8559
E-mail: healthdept@town.grafton.ma.us

HEALTH AGENT
Lois Luniewicz, REHS/RS, CHO
(508) 839-5335 X 128

PUBLIC HEALTH NURSE
Patricia Pighetti-Parent, R.N.
508-839-5335 X 129

TANNING FACILITY REGULATIONS Revised June 23, 2008

Section

- 001: Authority, Purpose and Scope
- 002: Definitions
- 003: Operation of Tanning Facilities
- 004: Inspections
- 005: Application for a License
- 006: Issuance of a License
- 007: Renewal of a License
- 008: Report of Changes
- 009: Non-Transferability of a License
- 010: Grounds for Suspension of a License
- 011: Grounds for Denial, Revocation or Refusal to Renew a License
- 012: Procedure for Hearings
- 013: Procedure for Appeal
- 014: Penalties
- 015: Exemptions
- 016: Severability

001: Authority, Purpose and Scope

(A) This regulation is promulgated under authority of Massachusetts General Law Chapter 111, Sections 31 SS 207-214 and 105 CMR 123.00.

(B) The purpose of these Regulations is to set forth the licensure procedures and the requirements for the maintenance and operation of tanning facilities.

(C) These regulations apply to all tanning facilities, except for those facilities having a phototherapy device used by or under the supervision of a licensed physician who is trained in the use of such phototherapy device in which patients are intentionally exposed to ultraviolet radiation for the purpose of treatment of disease by licensed health care professionals.

002: Definitions

Applicant means any person who applies to the Board of Health for a license to maintain and operate a tanning facility.

Board of Health or Board means the Board of Health which has jurisdiction in the community in which a tanning facility is located including the Board or officer having like powers and duties in towns where there is no Board of Health.

Customer means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who is afforded use of a tanning facility as a condition or benefit of membership or access.

Department means the Radiation Control Program of the Massachusetts Department of Public Health.

Facility means tanning facility.

Injury means bodily harm resulting from the use of a tanning device which requires medical attention.

Inspection means an official examination or observation by the Department or Board, which includes but is not limited to tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the Board or Department.

Jeopardy means a situation or condition which the Board has determined presents an imminent threat to the health or safety of a customer.

License means a license to operate a tanning facility issued by the Board of Health.

Licensee means any person who is licensed by the Board of Health.

Operator means an individual designated by the licensee to control the operation of a tanning facility and to instruct and assist the customer in the proper operation of tanning devices.

Person means any natural person, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this Commonwealth, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

Phototherapy device means equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

Radiation means ultraviolet radiation.

Radiation machine means any device capable of producing radiation.

Tanning device means any equipment used for tanning the skin that emits ultraviolet radiation, including, but not limited to, a tanning booth, tanning bed or sunlamp which includes high pressure tanning lamps. Tanning devices also include any accompanying equipment, including, but not limited to, protective eyewear, timers and handrails.

Tanning facility means any location, place, area, structure or business which provides access to tanning devices.

Ultraviolet radiation means electromagnetic radiation with wavelengths in the air between 200 nanometers and 400 nanometers.

003: Operation of Tanning Facilities

Unless otherwise ordered or approved by the Board or Department, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

(A) Physical plant:

(1) Warning sign

- (a) A warning sign shall be posted within three feet of each tanning device;
- (b) The warning sign shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item so that the user of the tanning device can easily view the warning sign before energizing the ultraviolet light generating device;
- (c) The warning sign shall be printed in white on a red background;
- (d) The lettering on each warning sign shall be at least 4/16 inch high for all words shown in capital letters and at least 3/16 inch high for all lower case letters;
- (e) The warning sign shall be at least 8½ inches wide by 11 inches long;
- (f) The warning sign shall contain the following information:

DANGER - ULTRAVIOLET RADIATION

1. Follow instructions.
2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure to a sunlamp may cause eye and skin injury and allergic reaction. Repeated exposure may cause chronic damage characterized by wrinkling, dryness, fragility, bruising of the skin and skin cancer.
3. Wear protective eyewear. **FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.**
4. Ultraviolet radiation from sunlamps aggravates the effects of sun. Do not sunbathe before or after exposure to ultraviolet radiation.
5. Abnormal or increased skin sensitivity or burning may be caused by certain foods, cosmetics or medications, including but not limited to, tranquilizers, diuretics, antibiotics, high blood pressure medication, birth control pills and skin creams. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use a tanning device may develop discolored skin. (See ADDENDUM 1 / attached. Wording should be added where this FDA list can be obtained and the date of the posted list).
6. **IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN FROM USE OF THIS DEVICE.** Use of a tanning device does not provide a substantial protective base against the effects of the sun.
7. Photosensitizing Agents: a list must be posted in a location so that all customers can easily see it. FDA lists should be updated on a periodic basis due to the development of new products and medications. First time customers need to be asked if they are using any of these agents and thus placing themselves at risk.

(2) Requirements for Tanning Devices

(a) Only tanning devices manufactured and certified to comply with the Code of Federal Regulations (CFR) 21 CFR 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products," as amended from time to time, shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR 1010.3, as amended from time to time.

(b) Each tanning device shall have a timer which complies with the requirements of 21 CFR 1040.20(c)(2), as amended from time to time. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error greater than plus or minus 10% of the maximum time interval for the product.

(c) Tanning devices shall meet the requirements of the relevant sections of the National Fire Protection Association's National Electrical Code and shall have been inspected and have satisfied all the local electrical code requirements.

(d) There shall be physical barriers in tanning facilities to protect customers from injury induced by touching or breaking the lamps.

(e) Additional requirements for stand-up booths:

1. There shall be physical barriers or other methods, such as handrails or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the customer's skin.

2. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.

3. Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails or non-slip floors shall be provided.

(f) Defective or burned-out lamps or filters shall be replaced with a type intended for use in that tanning device which is specified on the product label or with lamps or filters that are "equivalent" under the U.S.F.D.A. regulations and policies applicable at the time of lamp manufacture. Bulb replacement records should include, at minimum: unit/room ID, equipment or model number, new bulb name and model number, reason for changing bulb, operator's initials, date and comments.

(g) The licensee shall maintain records of the recommended exposure time established by the manufacturer of the tanning device. Such records shall be available to each operator. The operator shall follow the recommended exposure times and limit each customer to the maximum exposure established by such records.

(h) The interior temperature of the tanning device shall not exceed 100°F.

(B) Protective Eyewear.

(1) Protective eyewear which meets the requirements of 21 CFR 1040.20(c)(4), as amended from time to time, shall be made available to the customer before each tanning session with instructions for its mandatory use.

(2) The licensee shall maintain in the facility manufacturer's eyewear literature which documents compliance with 21 CFR 1040.20(c)(4), as amended from time to time.

(3) Protective eyewear, other than eyewear designed for one-time use only, shall be properly sanitized before each use, using a sanitizing agent which is registered by the United States Environmental Protection Agency (U.S.E.P.A.) and which is specifically manufactured for use with protective eyewear. Exposure to the ultraviolet radiation produced by the tanning device itself is not considered a sanitizing agent.

(C) Operators.

(1) Each operator must be trained and sufficiently knowledgeable in the correct operation of tanning devices used at a facility. That knowledge shall include:

- (a) the requirements of 105 CMR 123.000 and of 21 CFR 1040.20, as amended from time to time and these regulations;
- (b) proper use of U.S.F.D.A. Recommended Exposure Schedule;
- (c) photosensitizing agents such as: foods, cosmetics, and medications that may produce an abnormal or increased skin sensitivity;
- (d) skin type determination;
- (e) recognition of injuries from overexposure to ultraviolet radiation;
- (f) manufacturer's procedures for the correct operation and maintenance of the tanning device;
- (g) use of protective eyewear;
- (h) emergency procedures in case of injury;
- (i) effects of ultraviolet radiation, acute and chronic exposure, biological effects, and health risks;
- (j) electromagnetic spectrum with emphasis on the photobiology and physics within the 200-400 nanometer range;

(2) A list of the facility's operators who have been trained shall be maintained and available at the facility.

(3) A trained operator must be present at a tanning facility at all times during operating hours to be able to inform and assist each customer in the proper use of the tanning devices.

(D) Records.

(1) Each time a customer uses a tanning facility, or each time a customer executes or renews a contract to use a tanning facility, such customer shall be given a written statement of warning as described herein and sign a written statement acknowledging that he/she has read and has understood the warning statement. For illiterate or visually handicapped persons, the warning statement shall be read by the operator to the customer in the presence of a witness. Both the witness and the operator shall sign the statement indicating it has been read to the customer.

(2) No person 14 years of age to 17 years of age, inclusive, shall use a tanning device without the prior written consent of a parent or legal guardian who shall indicate therein that such parent or guardian has read and understood the warnings required under these provisions. The operator must sign the consent form as a witness to the signing by the parent or legal guardian.

(3) No person under 14 years of age shall use a tanning device unless accompanied by a parent or legal guardian. The parent or legal guardian accompanying the person under 14 years of age shall sign a consent form indicating to the operator that such parent or guardian has read and understood the warnings.

(4) A record shall be kept by the facility operator of each customer's total number of tanning visits and tanning times. Such records shall be maintained for at least 12 months from the date of that customer's last tanning session.

(5) Copies of all applications and the license information must be maintained at the tanning facility and be available for review by inspectors and tanning facility customers upon request.

(6) Proper Record Keeping. **Client Questionnaire:** (See Addendum 2). **Customer Records Form** (See Addendum 2-A).

(E) Injury Reports.

(1) A written report of any tanning injury to a customer or complaint of injury shall be forwarded by the facility's operator or licensee to the Board which issued the license and to the Department with a copy to the complainant or injured person within five working days of its occurrence or knowledge thereof. The Board shall retain such reports as part of the Health Department file and shall allow public inspection. The report shall include:

- (a) the name of the affected individual;
- (b) the name and location of the tanning facility involved;
- (c) the nature of the injury;
- (d) the name and address of the affected individual's health care provider, if any;
- (e) any other information considered relevant to the situation.

(F) Sanitation.

(1) The operator shall provide to customers of the tanning facility access to toilet and hand washing facilities. Such facilities shall meet the following requirements:

- (a) they shall be cleaned and disinfected at least once every 24 hours, and
- (b) they shall contain liquid soap, paper towels, and a receptacle for used paper towels.

(2) Each customer shall have access at all times to a safe and sanitary supply of drinking water.

(3) Each facility shall provide to its customers paper or cloth towels which may not be shared. Cloth towels must be washed and sanitized after each use.

(4) All surfaces with which customers have contact within tanning devices shall be disinfected after each customer's use. Disinfection shall be carried out using a U.S.E.P.A. registered disinfectant.

(5) Each tanning device shall be capable of being ventilated so that there is a minimum of 20 cubic feet per minute (cfm) of fresh air per occupant.

(6) If showers are provided:

- (a) hot water shall be at a temperature between 110 - 130°F;
- (b) shower floors shall be constructed of non-absorbent, non-slippery materials, and sloped toward a properly installed floor drain. The use of duckboards or rubber mats in the shower is not permitted; and
- (c) shower floors and walls shall be cleaned and disinfected at least once every 24 hours.

(7) The interior of the facility shall be maintained in good repair and in a safe, clean, sanitary condition, free from all accumulation of dirt and rubbish.

(8) All equipment and fixtures in the facility, if appropriate, shall be installed in accordance with accepted plumbing, gas fitting, and electrical wiring standards.

(G) No tanning facility shall claim, or distribute promotional material that claims, that the use of a tanning device is safe and free from risk.

004: Inspections

(A) The Board of Health shall inspect each tanning facility within 30 days of licensure, every six months thereafter, and upon receipt of any written complaint.

(B) The Board of Health, local health agent, or Department shall have access at all reasonable times to any tanning facility for the purpose of inspecting said facility.

005: Application for a License

(A) No person shall maintain or operate a tanning facility unless he/she is the holder of a valid license granted by the Board of Health.

(B) Applications for licensure shall be made on forms prescribed by and available from the Board. Each applicant shall submit all the information required by the form and the accompanying instructions. The term "application" as used herein shall include original and renewal applications.

(C) The Board shall require that the applicant provide at least the following information in order to be issued a license to operate a tanning facility:

(1) Name, address and telephone number of the following:

(a) The tanning facility;

(b) The owner(s) of the tanning facility;

(2) The manufacturer, model number, model year, serial number (if available) and type of each ultraviolet lamp or tanning device located within the facility;

(3) The geographic areas within the Board's jurisdiction to be covered, if the facility is mobile;

(4) The name and address of the tanning device supplier, installer, date of installation of each tanning device, and service agent;

(5) A signed and dated certification that the applicant has received, read and understood the requirements;

(6) A copy of the consent form to be used by the facility in fulfilling the requirements;

(7) A copy of the operating and safety procedures to be followed in the operation of the facility and tanning devices.

(D) Each applicant shall provide such additional information as the Board may reasonably require.

(E) Each applicant shall submit the appropriate license fee. The fee for a license and annual renewal thereof shall be determined by each Board.

006: Issuance of a License

(A) Upon a determination by the Board that an applicant meets the requirements of 105 CMR 123.005, the Board shall issue a license to maintain and operate a tanning facility.

(B) The Board may incorporate in the license at the time of issuance or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession and use of the license to operate tanning facilities as it deems appropriate or necessary.

(C) A license shall expire December 31 of each year.

(D) Each tanning facility's license must be displayed in a conspicuous place in the facility.

007: Renewal of a License

(A) An application to renew a license shall be filed in accordance with the requirements of the Board.

(B) In order to renew a license, a licensee shall file an application with the Board in proper form for renewal not less than 30 days prior to the expiration of his/her license, whereupon the licensee's existing license shall not expire until the renewal application status has been finally determined by the Board.

008: Report of Changes

All required information by the Board shall be kept current by each licensee. The licensee shall notify the Board in writing before making any change which would render the information reported and contained in the application for license no longer accurate. This requirement shall not apply to changes involving replacement of the original lamp types which have been certified with the United States Food and Drug Administration (U.S.F.D.A.) as "equivalent" lamps under the U.S.F.D.A. regulations and policies applicable at the time of replacement of the lamps. The facility owner shall maintain at the facility manufacturer's literature demonstrating the equivalency of any replacement lamp.

009: Non-Transferability of License

No license shall be transferable from one person to another or from one tanning facility to another.

010: Grounds for Suspension of a License

The Board or its authorized agent may summarily suspend a license pending a hearing whenever the Board finds that there is a situation causing jeopardy to customers at a tanning facility. A facility may not operate during the period of a suspension of its license.

011: Grounds for Denial, Revocation or Refusal to Renew a License

(A) The Board may deny, revoke or refuse to renew a license sought or issued for any one of the following reasons:

- (1) The applicant or licensee has failed to submit the information required which demonstrates that the facility will be operated and maintained in accordance with the requirements;
- (2) The applicant or licensee has submitted incorrect, false or misleading information in the documents required;
- (3) The applicant or licensee has failed to operate or maintain the tanning facility in accordance with the specifications approved by the Board except as such maintenance may involve the replacement of lamps by "equivalent" lamps;
- (4) The tanning facility is operated in a way that causes or creates a nuisance or hazard to the public health or safety;
- (5) The applicant or licensee has violated any condition upon which the license was issued by the Board;

- (6) The applicant or licensee has failed to allow duly authorized agents of the Board or Department to conduct inspections of the facility at reasonable hours and in a reasonable manner;
- (7) The applicant or licensee has failed to pay license fees;
- (8) The tanning facility has been found to be in violation or any additional requirements adopted by the Board and has not complied within seven days of written notice of said violations by the Board, including but not limited to any other applicable law, rule or regulation.
- (9) The applicant or licensee has failed to pay fines or penalties imposed for violations of or local rules, regulations, or orders respecting tanning facilities.

(B) The Board shall notify an applicant or licensee in writing of any violation for which the Board intends to deny, revoke or refuse to renew a license. The applicant or licensee shall have seven days after receipt of such written notice in which to comply. The Board may deny, revoke or refuse to renew a license of a tanning facility which fails to comply after said seven days.

012: Procedure for Hearings

(A) Suspension of a License.

- (1) Upon written request to the Board, the licensee shall be afforded an opportunity to be heard concerning the suspension of a license by the Board.
- (2) Such a hearing shall be initiated pursuant to 801 CMR 1.00 *et seq.* no later than 21 calendar days after the effective date of the suspension.
- (3) In cases of suspension of a license, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension a jeopardy situation at a tanning facility. The hearing officer shall issue a written decision which contains a summary of the testimony and evidence considered and the reasons for the decision.

(B) Denial, Revocation, or Refusal to Renew a License.

- (1) A license may be denied, revoked or refused renewal only after a hearing conducted by the Board of Health;
- (2) If the Board determines that a license shall be denied, revoked or not renewed the Board shall initiate a hearing in accordance with 801 CMR 1.00 *et seq.*
- (3) Following the hearing, the hearing officer shall issue a written decision which contains a summary of the testimony and evidence considered and the reasons for the decision.

013: Procedure for Appeal

Following a hearing by the Board, any applicant or licensee aggrieved by a determination of the Board may appeal in writing to the Department within 20 days of said determination. Any applicant or licensee or the Board, if aggrieved by a determination of the Department, may appeal said decision pursuant to the provisions of M.G.L. c. 30A § 14.

014: Penalties

Whoever violates any provision of M.G.L. c. 111, §§ 207 to 213 inclusive or any rule or regulation promulgated thereunder shall be punished by a fine. Each violation and each day shall be considered separate offenses and shall not exceed \$1,000.00 per offense in accordance with MGL 111 S 31.

015: Exemptions

(A) The Board and/or the Department may, upon application therefor or upon its own initiative, grant such exemptions or exceptions as it determines are authorized by law and will not result in undue hazard to public health and safety.

(B) Devices intended for purposes other than the deliberate exposure of parts of the living human body to ultraviolet radiation, and which produce or emit ultraviolet radiation incidental to its proper operation are exempt from these provisions.

(C) Tanning devices while in transit or storage incidental thereto are exempt from these provisions.

(D) Phototherapy devices used by or under the supervision of a licensed physician who is trained in the use of such phototherapy devices are exempt from these provisions.

016: Severability

If any provision, clause, section, sentence or paragraph of these regulations or the application thereof to any person shall be held to be invalid, such invalidity shall not affect the remaining provisions or applications of these regulations. The valid part of any provision, clause, section, sentence or paragraph shall be given independence from the invalid provisions or applications.

Adopted June 23, 2008

To be Effective: July 1, 2008

GRAFTON BOARD OF HEALTH

Karen Gwozdowski Gauvin, Chairman

Richard J. Kirejczyk, Vice Chairman

Deborah A. Chouinard, Clerk

TANNING FACILITY REGULATIONS
Revised June 23, 2008

ADDENDUM #1

(Wording should be added where this FDA list can be obtained and the date of the posted list.)

Perfumes and colognes containing Furocoumarins, compounds from natural products such as plants and fruits. Their natural oils CAN SENSITIZE THE SKIN TO SUNLIGHT.

Foods and fruits that contain photosensitizing agents: celery, carrots, lime, coriander, parsley, fennel, dill, buttercup, mustard and fig.

A partial list of known photosensitizing medications is listed below by name:

Accutane	Danocrine	Garamycin	Naturetin	Serentil
Achromycin	Dapsone	Glucotrol	NegGram	Serepasil
Actidil	Declomycin	GrisactinUltra	Neptazane	Sinequan
Actifed	Deconamine	Haldol	Normozide	Sparine
Adrueil	Diabeta	Hibiclens	Noroxin	Stelazine
Aldactazide	Diabinese	Hispril	Norpramin	Sumycin
		Spansule		
Aldoctor	Dilantin	Hydromox	Optimine	Surmontil
Aldoril	Dimetane	Hygroton	Oreticyl	Tacaryl
Ambenyl	Dincardin	Inderide	Ornade	Taractan
			Spansule	
Ancobon	Dlulo	Intal Inhaler	Orudis	Tavist
			Capsules	
Apresolene-				
Exsidrix	Diupres	Intron A	Pamelor	Tegretol
Aquatenson	Diuril	Lasix	Pediazole	Temaril
Asendin	Diutensen-R	Librium	Periactin	Tenoretic
Azo Gantanol	Dyazide	Limbitrol	Permitil	Terramycin
Azo Gantrisin	Dyrenium	Lozol	Pertofrane	Thalitone
Azulfidine	Elavil	Ludiomil	Phenergan	Thorazine
Bactrim	Endep	Marplan	Phisohex	Timolide
Bainetar	Enduronyl	Maxzide	Polaramine	Tofranil
Barbiturates	Esidix	Mellaril	Prolixin	Tolazamide
Benadryl	Esimil	Mepergan	Quindex	Tolinase
Butazolodin	Estar Gel	Mexate	Quinidine	Trandate HCT
Capoten	Etrafon	Mexate-AQ	Quinine	Triaminic TR
Cesamet	Exna	Minizide	Rauzide	Vaseretic
				Vasotic Tablets
Clinoril	Flexeril	Moduretic	Ru-Tuss II	Velban
			Capsules	
Compazine	Folex	Motrin	Seldane	Vivactil
	Fulvicin U/V	Mykrox	Septra	Voltaren Tablets
	Gantanol	Naquival	Ser-Ap-Es	Zaroxolyn

TANNING FACILITY REGULATIONS
Revised June 23, 2008

ADDENDUM 2

CLIENT QUESTIONNAIRE:

Have you ever tanned indoors before? Yes _____ No _____

If so, when was your last session? _____

Is there a family history of skin cancer? Yes _____ No _____

Are you taking any medications or herbal supplements? Yes _____ No _____

If female: Are you pregnant? Yes _____ No _____

Are you using birth control medication of any type? Yes _____ No _____

Name: _____

Age: _____ Address _____

Tanning Experiences: Do you tan easily? Yes _____ No _____

Do you freckle from the sun? Yes _____ No _____

How would you describe your complexion: Fair _____ Medium _____ Dark _____

ADDENDUM 2-A

CUSTOMER RECORDS FORM:

Form should contain at least the following: date, length of session, unit used, operator, question asking if there has been a change in the client's health since last visit? Suggested additions to form include: declarative sentence stating the client has not tanned within 24 hours, statement by customer agreeing to wear eye protection throughout the session, that the customer has reviewed exposure schedules and safety instructions on equipment with operator prior to use, the client has had all questions answered to their satisfaction prior to session.