

CHAPTER 66 TANNING FACILITIES

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66.01 PURPOSE. This chapter provides for the regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, and health and country clubs. All references to the Code of Federal Regulations (CFR) in this chapter are to those provisions in effect as of April 30, 2007. These rules establish minimum safety requirements relating to the operation of tanning devices, qualifications for tanning facility operators, and procedures for the Board of Health to provide for the inspection of tanning facilities and enforcement of these rules. A tanning facility that is in compliance with these rules is not relieved from the requirements of any other federal or state regulation or local ordinance.

66.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Board of Health" means the local Board of Health as constituted under Chapter 137 of the Code of Iowa.
2. "Cleansing" means to remove soil, dirt, oils, or other residues from the surface of a tanning unit which may come into contact with the skin.
3. "Cleansing agent" means a substance capable of producing the effect of cleansing. Such agents shall not adversely affect the equipment or the health of the consumer and shall be acceptable to the Iowa Department of Inspections, Appeals, and Licensing or the Board of Health.
4. "Consumer" 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, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.
5. "Department" means the Iowa Department of Inspections, Appeals, and Licensing.
6. "Exposure position" means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.
7. "Formal training" means a course of instruction approved by the Department for operators of tanning facilities.
8. "Healthcare professional" means an individual, licensed by the State of Iowa, who has received formal medical training in the use of phototherapy.
9. "Inspection" means an official examination or observation, including but not limited to tests, surveys, and monitoring, to determine compliance with the rules, orders, requirements, and conditions of this chapter.
10. "Manufacturer's recommendations" means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer's equipment.
11. "Operator" means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.
12. "Permit" or "Permit to Operate" means a document issued by the Iowa Department of Inspections, Appeals, and Licensing which authorizes a person to operate a tanning facility.

13. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but does not include federal government agencies.
14. "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and is used by a healthcare professional in the treatment of disease.
15. "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in air between two hundred (200) and four hundred (400) nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The term also includes any accompanying equipment such as protective eyewear, timers, and handrails.
16. "Tanning facility" means a place that provides access to tanning devices for compensation.
17. "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

66.03 EXEMPTIONS. The Iowa Department of Inspections, Appeals, and Licensing and/or the Board of Health may, upon application or upon its own initiative, grant exemptions from the requirements of these rules so long as the exemption will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

1. Other Purposes. Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation.
2. Personal Use. Tanning devices which are limited exclusively to personal use by an individual and that individual's immediate family. Multiple ownership of a device by persons for personal use only does not qualify it for the "personal use only" exemption.
3. Phototherapy Devices. Phototherapy devices used by a properly trained healthcare professional in the treatment of disease.

66.04 PERMITS AND FEES.

1. No tanning facility shall be operated in the County without a permit to operate issued by the Iowa Department of Inspections, Appeals, and Licensing.
2. Inspections.
 - A. Inspections shall be conducted annually.
 - B. Inspection fees.
 - (1) An inspection fee shall be set by the Board of Health.
 - (2) Inspection fees shall be due at the inspection visit. The fees billed shall be paid to the Board of Health or its designee (Sac County Environmental Health).
 - (3) Inspection fees not received within forty-five (45) days of the date of inspection shall be assessed a late fee penalty of \$50.00 for each month or fraction thereof that the bill is delinquent.
 - C. Inspections shall include the following areas: proper operation and maintenance of devices; review of required records and training documentation; operator understanding and competency; and the requirements of these rules.

66.05 CONSTRUCTION AND OPERATION OF TANNING FACILITIES. Unless otherwise ordered or approved by the Department and the Board of Health, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

1. Warning Signs and Statements.

- A. A tanning facility shall provide and post warning signs and statements that describe the hazards associated with the use of tanning devices. A warning sign shall be placed in a conspicuous location readily visible to persons entering the establishment. This sign shall use 0.5-inch (12.7 millimeter)

letters for “Danger, Ultraviolet Radiation” and 0.25-inch (6.4 millimeter) letters for all other lettering, against a white background, and shall be at least nine inches by twelve inches (22.9 centimeters by 30.5 centimeters), bearing the following wording:

DANGER — ULTRAVIOLET RADIATION. Overexposure can cause eye and skin injury and allergic reaction. Repeated exposure may cause premature aging of the skin and skin cancer. Failure to wear protective eyewear may result in severe burns to the eyes and long-term injury to the eyes. Medication or cosmetics may increase your sensitivity.

- B. A warning sign with the identical wording set forth in paragraph A of this subsection shall be posted within one meter of the tanning device in a conspicuous location readily visible to a person preparing to use the device. This sign shall use 0.5-inch (12.7 millimeter) lettering for “Danger, Ultraviolet Radiation” and 0.25-inch (6.4 millimeter) lettering for all other lettering, against a white background, and shall be at least six inches by nine inches (15.2 centimeters by 22.9 centimeters) in size.
- C. A tanning facility shall provide each customer with a written warning statement prior to the customer’s initial exposure which includes at least the following information:
 - (1) A representative list of potential photosensitizing drugs and agents, including at least drugs or agents in the product classes of acne treatment, antibacterial, antibiotics, anticonvulsants, antidepressants, antidiabetics, antihypertensives, dyes, estrogen and progesterones, melanogenics, perfumes and toilet articles, tranquilizers, antihistamines, and antimicrobials/anti-infectious agents. A partial list of drugs and agents in these product classes is found in Appendices IA, IB, and IC of Chapter 46 of the Iowa Administrative Code and is adopted by reference.
 - (2) Basic information on how different skin types respond to tanning (see Appendix No. 2 of Chapter 46 of the Iowa Administrative Code).
 - (3) An explanation of the need to use eyewear.
 - (4) The operator shall then require that the consumer sign a statement that the information has been read and understood.

2. Federal Certification.

- A. Only tanning devices manufactured and certified under the provisions of 21 CFR Part 1040.20, “Sunlamp products and ultraviolet lamps intended for use in sunlamp products,” 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 Parts 1010.2 and 1010.3.
- B. Labeling shall meet the applicable requirements, be visible on each unit, and be permanently affixed. Labeling shall include a warning statement, the recommended exposure position(s), directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure, a recommended exposure schedule including duration and spacing of sequential exposures and maximum exposure time(s) in minutes, a statement of the time it may take before expected results appear, the designation of the ultraviolet lamp type to be used in the product, and the federally required statement that the sunlamp product should not be used on persons under the age of 18 years.

3. Tanning Device Timers and Condition.

- A. Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040.20. The maximum timer interval shall not exceed the manufacturer’s maximum recommended exposure time. No timer shall have an error factor greater than plus or minus ten (10) percent of the indicated setting.
- B. Each tanning device shall have a method of remote timing located so that customers may not control their own exposure time.

- C. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer's maximum recommended exposure time for the consumer.
- D. Each tanning device shall incorporate a control on the product to enable the consumer to manually terminate the radiation emission from the product at any time without disconnecting the electrical source or removing the ultraviolet lamp.
- E. The operator shall ensure that the facility interior temperature does not exceed one hundred (100) degrees Fahrenheit (thirty-eight (38) degrees Celsius).
- F. There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps. The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements.

4. Additional Requirements for Stand-Up Booths.

- A. There shall be physical barriers (such as handrails) or other means (such as floor markings) to indicate the proper exposure distance between the ultraviolet lamps and the consumer's skin.
- B. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
- C. Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and nonslip floors shall be provided.

5. Protective Eyewear.

- A. Eyewear shall not be reused by another consumer.
- B. Protective eyewear shall meet the requirements of 21 CFR Part 1040.20(c)(4).
- C. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (for example, removal of straps).
- D. A tanning facility operator shall not allow a consumer to use a tanning device if that consumer does not use the protective eyewear required by this subsection. To verify that a consumer has the proper eyewear, the operator must either ask to see the eyewear before the consumer enters the tanning room, or provide disposable eyewear in the tanning room at all times and post a sign stating that eyewear is available and must be worn.
- E. A tanning facility operator shall instruct the consumer in the proper use of the protective eyewear required by this subsection.

6. Operation.

- A. A trained operator must be present when a tanning device is operated and must be within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the consumer must be able to summon help through use of an audible device such as an intercom or buzzer, and the operator must be able to reach the consumer within a reasonable amount of time after being summoned.
- B. The facility's permit to operate shall be displayed in an open public area of the tanning facility.
- C. A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of exposure, and any injuries or illness resulting from the use of the tanning device.
- D. Any tanning injury not requiring a physician's care, and any resulting changes in tanning sessions, shall be noted in the consumer's file. A written report of any tanning injury requiring a physician's care shall be forwarded by the permit holder to the Iowa Department of Inspections, Appeals, and Licensing and the local Board of Health within five (5) working days of its occurrence or knowledge thereof. The report shall include the name of the affected individual; the name and location of the tanning facility involved; the nature of the injury; the name and address of the healthcare provider treating the affected individual, if any; and any other information considered relevant to the situation.

- E. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label, or with lamps or filters that are equivalent under 21 CFR Part 1040.20 and policies applicable at the time of lamp manufacture. The permit holder shall replace ultraviolet lamps and bulbs that are not otherwise defective or damaged at such frequency or after such duration of use as may be recommended by the manufacturer.
- F. Contact surfaces of tanning devices shall be cleansed by the operator with a cleansing agent between each use; or covered by a non-reusable protective material during each use; or cleansed by the consumer, provided that the operator instructs the consumer annually on how to properly cleanse the unit, the consumer annually signs a statement agreeing to cleanse the unit after each use, signs are posted in each tanning room reminding the consumer to cleanse the unit after each use and stating the proper method, and the operator cleanses the tanning unit at least once a day.
- G. Any records or documentation required by this chapter shall be maintained in the tanning facility for a minimum of two (2) years. Records maintained on computer systems shall be copied regularly, at least monthly, and updated on storage media other than the hard drive of the computer. An electronic record must be retrievable as a printed copy.
- H. The operator shall limit the exposure of the consumer to the maximum exposure frequency and session duration recommended by the manufacturer.
- I. When a tanning device is being used, no other person shall be allowed to remain in the tanning device area unless protective eyewear is worn.

7. Training of Operators.

- A. No individual shall begin functioning as an operator unless the individual has satisfactorily completed a training program. Training shall include, but not be limited to, the requirements of Chapter 46 of the Iowa Administrative Code; procedures for correct operation of the tanning facility and tanning devices; the determination of skin type of consumers and appropriate determination of duration of exposure; recognition of reaction or overexposure; and the manufacturer’s procedures for operation and maintenance of tanning devices.
- B. Owners and managers must complete formal training approved by the Iowa Department of Inspections, Appeals, and Licensing and must satisfactorily pass a certification examination approved by the Department before operating a tanning facility or training employees.
- C. Owners and managers are responsible for training operators in the above topics and for providing review as necessary. Training programs, including final testing, shall be approved by the Department and the Board of Health. Operators shall be questioned during inspections as to their level of understanding and competency in operating the tanning device.
- D. Proof of training for both owners/managers and operators must be maintained in the tanning facility and available for inspection. For operators, the employee record shall be the original test which bears the signature of the employee, the date, and a statement signifying that all answers have been completed by the employee without prior knowledge of the scoring key.
- E. Operators shall be at least sixteen (16) years of age.
- F. Operators shall complete the required training and testing every five (5) years.
- G. Owners and managers shall complete the required testing every five (5) years. The test used shall be one approved by the Iowa Department of Inspections, Appeals, and Licensing, and testing is available online.

8. Promotional Materials.

- A. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk or that the use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

9. Requirements for Electronically Controlled Facilities.

Electronically controlled facilities are those facilities that rely on electronic means to monitor consumers.

- A. Entry into the facility is allowed by card only. Two individuals may not enter under the same card. The card is specifically activated for tanning use if the facility offers other activities.
- B. Police and all emergency services shall have access to the facility through a key box located outside the entrance of the facility.
- C. The tanning unit shall not activate if the card is not programmed for tanning, and the card shall not activate if two individuals are in the tanning room.
- D. The consumer must sign a tanning agreement that states the number of minutes per session, that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.
- E. The card shall be programmed for the number of minutes the consumer is allowed to tan. The card may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the tanning agreement. After 30 consecutive days without the consumer accessing the tanning facility, the card shall be deactivated and the consumer must reapply to access the tanning unit.
- F. The operator shall demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign shall be placed in each room explaining the cleansing process, and the operator shall cleanse the units at least once a day when they are in use.
- G. Free disposable eyewear shall be placed in each room along with a sign stating that the disposable eyewear is available and that eyewear must be worn.
- H. An emergency call button or device shall be placed in each tanning room, conveniently located within reach of the tanning bed, which calls the operator or emergency personnel.
- I. During annual inspections, the inspector may ask any consumer about any of the above processes.

66.06 INSPECTIONS, VIOLATIONS, AND INJUNCTIONS.

1. The Board of Health or its designee shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated.
2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to it is guilty of a simple misdemeanor.
3. If the Board of Health or its designee finds that a person has violated, is violating, or is threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the Board of Health or its designee may petition the magistrate's court for a temporary restraining order to restrain the violation or threatened violation.
4. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the magistrate's court shall grant any injunctive relief warranted by the facts.
5. Enforcement.
 - A. The Board of Health or its designee shall take the following steps, or use any other applicable ordinances, resolutions, rules, or regulations, when enforcement of these rules is necessary: cite each section of the state code or ordinance violated; specify the manner in which the owner or operator failed to comply; specify the steps required for correcting the violations; request a corrective action plan, including a time schedule for completion; and set a reasonable time limit, not to exceed thirty (30) days from receipt of the notice, within which the permit holder must respond.
 - B. The Board of Health or its designee shall review the corrective action plan and approve it or require that it be modified.
 - C. In cases where the permit holder fails to comply with the conditions of the written notice, the Board of Health or its designee shall send a regulatory letter, via certified mail, advising the permit holder that unless action is taken within five (5) days of receipt, the case shall be turned over to the County Attorney for court action.

66.07 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Sac County Board of Health.