

**New Jersey Department of Health and Senior Services
Consumer and Environmental Health Services
Public Health Sanitation and Safety Program**

DHSS ANNOUNCES NEW TANNING FACILITIES RULES

The Consumer and Environmental Health Services of the Division of Epidemiology, Environmental and Occupational Health of the Public Health Services Branch of the Department of Health and Senior Services (Department) announces the adoption of new rules at N.J.A.C. 8:28 (Chapter 28), governing all tanning facilities in New Jersey. These rules, which became effective immediately upon publication in the New Jersey Register on January 20, 2009 [adoption citation: 41 N.J.R. 585(a), available at <http://www.lexisnexis.com/njoal>], implement the Tanning Facilities Act (Act), P.L. 2006, codified at N.J.S.A. 26:2D-81 et seq.

Chapter 28 establishes safety, sanitation and recordkeeping requirements for the operation of indoor tanning facilities that use ultraviolet sunlamp products and sets forth standards for registration, associated fees, inspection, and enforcement.

Chapter 28 Appendices A, B & C, designated as PHSS-1, PHSS-2 and PHSS-3 respectively, are available online at the Department's "Forms" website (<http://www.state.nj.us/health/forms>) and the Public Health Sanitation and Safety Program's (PHSSP) website (<http://www.state.nj.us/health/eoh/phss>). Additional guidance documents will also be available online at the PHSSP website as soon as possible.

Key points of the new rules are outlined below:

- All tanning facilities in existence on January 20, 2009 shall register with the Department by April 20, 2009 using Chapter 28's Appendix A, **Application for Tanning Facilities Registration (PHSS-1)**.
- Tanning facilities established after January 20, 2009 shall register with the Department prior to operation, using Chapter 28's Appendix A (**PHSS-1**).
- Subsequent to approval of a tanning facility's' registration application, the Department will issue the facility a **Certificate of Registration**.
- A *Tanning Facility* is defined as any location, place, area, structure or business that, either as a sole service or in conjunction with other services, provides consumers with access to sunlamp products, ultraviolet lamps or other equipment intended to induce skin tanning through the

irradiation of any part of the human body for cosmetic or non-medical purposes.

- Minors who are less than 14 years of age are prohibited from using a sunlamp product in a tanning facility.
- Minors who are at least 14 but less than 18 years of age are prohibited from using a sunlamp product unless the minor's parent or legal guardian provides written authorization for the minor's use of a tanning facility.
- Age and identity verification documentation for consumers, parents and legal guardians shall be acquired and retained in the consumers' records maintained by the tanning facilities.
- A sign describing the required age restrictions for consumers shall be posted in conspicuous view at or near the reception area.
- The Department will issue the tanning facility a Certificate of Registration valid for a period of one calendar year from the date of registration.
- A non-refundable \$300.00 registration fee shall be submitted with registration applications for tanning facilities that provide up to ten sunlamp products. An additional fee of \$10.00 is required for each sunlamp product that exceeds the first ten sunlamp products.
- Registration shall be renewed annually from the date of initial registration.
- Subsequent to initial registration, local departments of health shall perform annual inspections of facilities within their jurisdictions, using Chapter 28's Appendix B, **Tanning Facility Inspection Checklist (PHSS-2)**.
- Prior to initial registration, for facilities established after January 20, 2008, local departments of health shall perform pre-operational inspections of facilities within their jurisdictions, using Chapter 28's Appendix B (**PHSS-2**).
- A method of reimbursement for costs incurred by local departments of health in the implementation of Chapter 28 will be established.
- Local health department certification of satisfactory compliance with Chapter 28 by the tanning facilities shall be provided to the Department prior to renewal of the facilities' registration.
- Tanning facilities shall submit annual registration renewal applications, using Chapter 28's Appendix A (**PHSS-1**), to the Department within 30 calendar days prior to expiration of the existing Certificate of Registration.

- Tanning facilities shall notify the Department, using the Appendix A (**PHSS-1**) registration application form, within 30 calendar days of making any significant change to the registration application of the Certificate of Registration.
- The tanning facility shall provide all consumers (or consumer's parents or legal guardians for minors) with Chapter 28's Appendix C, **Warning Statement and Tanning Authorization (PHSS-3)**, upon their initial visit and annually thereafter.
- The tanning facility must also provide the parents or legal guardians of minors with a copy of the tanning facility safety standards (a version entitled **Safety Standards for Tanning Facilities** will be available on the PHSSP website as soon as possible).
- At least one *trained operator* shall be present and available in the tanning facility at all times during operation of the facility.
- Tanning facilities shall maintain a list of trained operators certified by registrants. Documentation of training and training curriculums must be maintained in the tanning facilities' records.
- Tanning facilities in existence on January 20, 2009 shall complete the operator training within 30 days of initial registration.
- The trained operator shall review a list of common photosensitizing agents with consumers, parents or legal guardians upon their initial visit and annually thereafter.
- A trained operator shall control each sunlamp product timer using a remote timer control system.
- The trained operator shall ensure that facility personnel thoroughly clean and disinfect all tanning equipment surfaces in contact with consumers with an appropriate EPA-registered hospital type disinfecting agent after each use, in accordance with the product label.
- The trained operator shall be responsible to ensure that each consumer has the required protective eyewear before each tanning session and shall make a reasonable effort to ensure that each consumer uses the protective eyewear when tanning.
- Tanning facilities shall evaluate the skin phototype of consumers prior to determination of consumers' exposure schedule as specified by the manufacturer of the sunlamp product for that skin phototype.

- The trained operator shall ensure that no consumer exceed the maximum exposure time and schedule specified by the manufacturer.
- Personnel shall comply with all requirements of Chapter 28 when using the facility's sunlamp products; shall not be required to use sunlamp products as a condition of employment or as compensation for work; and shall be provided with adequate personal protective equipment when performing tanning equipment maintenance and when using cleaning and disinfecting agents.
- With justification as specified in Chapter 28, the Department may deny, suspend or revoke a Certificate of Registration at any time.
- Appeal hearings to Department enforcement actions must be filed with the Department's Commissioner's office within 10 business days of receipt of notice of the action.