CHAPTER 46
MINIMUM REQUIREMENTS FOR TANNING FACILITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

641—46.1(136D) Purpose and scope. This chapter provides for the permitting and 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. Tanning facilities that follow these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.
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641—46.2(136D) Definitions. The definitions set forth in Iowa Code section 136D.2 are incorporated herein by reference.

"Board of health" means a county, city, or district board of health that has a 28E agreement with the department to perform inspections under this chapter.

"Cleansing" means to remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin.

"Cleansing agent" means a substance capable of producing the effect of "cleansing." These agents shall not adversely affect the equipment or the health of the consumer and be acceptable to the department or board of health.

"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.

"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.

"Formal training" means a course of instruction approved by the department for operators of tanning facilities.

"Health care professional" means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

"Inspection" means an official examination or observation to determine compliance with statutes, rules, orders, or other applicable conditions.

"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.

"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.

"Permit" or *"permit to operate"* means a document issued by the department that authorizes a person to operate a tanning facility in Iowa.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, 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.

"Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.
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641—46.3(136D) Exemptions. The department may, upon application or its own initiative, grant exemptions from these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

46.3(1) Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation that produce or emit ultraviolet radiation incidental to their proper operation.

46.3(2) Tanning devices that are limited exclusively to personal use by an individual and the individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption.

46.3(3) Phototherapy devices used by a properly trained health care professional in the treatment of disease.

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641—46.4(136D) Permits and fees.

46.4(1) *Permit to operate.* No tanning facility may operate without a permit issued by the department.

46.4(2) *Application requirements for permit.* Prior to operating a tanning facility, an individual shall:

a. Apply for a permit on forms provided by the department or board of health, along with a nonrefundable application fee of $5. A $15 returned check fee will be charged for each check returned for insufficient funds.

b. Notify the department in writing within 30 days of any changes, additions, or deletions to the initial or renewal application as appropriate. This does not include changes involving replacement of components in tanning equipment.

46.4(3) *Expiration of permit.* Except as provided in paragraph 46.4(4)*"b,"* each permit expires at the end of the specified day stated therein.

46.4(4) *Renewal of permit.*

a. Permits will be renewed annually upon the department's receipt of a completed renewal application and the $5 fee.

b. If the completed renewal is submitted prior to expiration of the existing permit, the existing permit does not expire until the application has been finally determined by the department.

c. In addition to any annual fee not paid, tanning facilities incur a $25 per month fee for failure to pay annual permit fees starting the month of expiration of the facility's permit.

46.4(5) *Transfer or termination of permit.* Permits are nontransferable and must be returned to the department or board of health upon cessation of operation or change of ownership.

46.4(6) *Denial, revocation, or termination of permit.*

a. The department may deny, suspend, or revoke a permit for any of the following reasons:

(1) Submission of false information to the department, including in a permit application;

(2) Operation of the tanning facility in a manner that causes or threatens hazard to the public health or safety;

(3) Failure to allow authorized representatives of the department or board of health to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this chapter, conditions of the permit, or an order of the department or board of health;

(4) Failure to pay fees in accordance with rule 641—46.4(136D); and

(5) Violation of any of the provisions of this chapter or Iowa Code chapter 136D.

b. Except in cases where public health and safety require otherwise, prior to the institution of proceedings for suspension or revocation of a permit, the department or board of health will notify the permit holder, in writing, of the facts or conduct warranting such action and provide an opportunity for the permit holder to demonstrate or achieve compliance.

c. Any person aggrieved by a decision by the department to deny, suspend, or revoke a permit may request a contested case hearing pursuant to 481—Chapter 9.

d. After suspension or revocation, a permit may be reinstated upon payment of a $50 fee and completion of all other requirements. This fee is in addition to any other applicable fee.

46.4(7) *Inspections.*

a. Inspections will be conducted annually at the cost of the permit holder. The cost of an inspection is $33 per tanning device, up to $330 per facility maximum. Inspection costs are due upon receipt of notice by the facility. Facilities located within a contracted area of a board of health will be paid to the contracted board of health or its designee. Inspection costs not received within 45 days of the date of billing will be assessed a $25 per month penalty for each month or fraction thereof that payment is delinquent.

b. A penalty fee of $25 per facility may be assessed for:

(1) Failure to respond to a notice of violation within 30 days of the date of the inspection.

(2) Failure to correct violations cited during the inspection.

c. Inspections include but are not limited to reviewing proper operation and maintenance of devices, necessary records and training documentation, and operator understanding and competency.

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641—46.5(136D) Construction and operation of tanning facilities. The following are minimum standards for the construction, operation, and maintenance of tanning facilities:

46.5(1) *Warning signs.* A tanning facility shall provide and post warning signs and statements as follows:

a. The warning sign must use minimum 0.5-inch (12.7-millimeter) letters for the statement "DANGER, ULTRAVIOLET RADIATION" and 0.25-inch (6.4-millimeter) letters for other lettering; use red lettering against a white background; be at least 9.0 inches by 12.0 inches (22.9 centimeters × 30.5 centimeters); and have the following wording:

DANGER
ULTRAVIOLET RADIATION
— Overexposure can cause
- Eye and skin injury
- Allergic reaction

— Repeated exposure may cause
- Premature aging of the skin
- Skin cancer

— Failure to wear protective eyewear may result in
- Severe burns to eyes
- Long-term injury to eyes

— Medication or cosmetics may increase your sensitivity

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b. A warning sign as set forth in paragraph 46.5(1)*"a"* will be posted in a conspicuous location readily visible to consumers entering the facility and in a conspicuous location within one meter of the tanning device readily visible to a person preparing to use the device.

c. A tanning facility shall require each consumer to read the information in Appendices 1, 2, and 3 prior to the consumer's initial exposure and annually thereafter. The consumer must sign a statement that the information has been read and understood. The information in Appendices 1, 2, and 3 must also be posted in each tanning room.

46.5(2) *Federal certification.* Only tanning devices manufactured and certified under the provisions of 21 CFR section 1040.20 may be used in tanning facilities. Compliance is based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR sections 1010.2 and 1010.3. Labeling shall be in accordance with 21 CFR section 1040.20(d).

46.5(3) *Tanning device timers.* Each tanning device shall have a timer that complies with 21 CFR section 1040.20(c). Each tanning device must have a method of remote timing so consumers cannot control their own exposure time. 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.

46.5(4) *Temperature limits.* The operator shall ensure that the facility's interior temperature does not exceed 100 degrees F or 38 degrees C.

46.5(5) *Condition of tanning devices.* The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements, and include physical barriers to protect consumers from injury induced by falling against or breaking the lamps.

46.5(6) *Stand-up booths.* Additionally, stand-up booths shall be constructed:

a. Utilizing physical barriers (e.g., handrails) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.

b. To withstand the stress of use and the impact of a falling person.

c. Utilizing rigid construction, with doors that open outwardly, and with handrails and nonslip floors.

46.5(7) *Protective eyewear.*

a. Eyewear shall not be reused by another consumer.

b. Protective eyewear shall meet the criteria of 21 CFR section 1040.20(c)(4).

c. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).

d. A tanning facility operator shall verify that a consumer has protective eyewear in accordance with this subrule and not allow a consumer to use a tanning device if that consumer does not use the protective eyewear. The operator should:

(1) Ask to see the eyewear before the consumer enters the tanning room; or

(2) Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and has to be worn.

e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear.

46.5(8) *Operation.*

a. A trained operator must be present when a tanning device is operated and 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 or emergency personnel must be able to reach the consumer within a reasonable amount of time after being summoned.

b. The facility's permit will be displayed pursuant to Iowa Code section 136D.6.

c. A record of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of a tanning device must be maintained.

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 provided to the department within five working days of its occurrence or operator's notice thereof. The report will include:

(1) The name of the affected individual;

(2) The name and location of the tanning facility involved;

(3) The nature of the injury;

(4) The name and address of the health care provider treating the affected individual, if any; and

(5) 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 on the tanning device or with lamps or filters that are "equivalent" under 21 CFR Section 1040.20, and policies applicable at the time of lamp manufacture.

f. Ultraviolet lamps and bulbs that are not otherwise defective or damaged will be replaced at such frequency or after such duration of use as is recommended by the manufacturer.

g. Contact surfaces of tanning devices shall be:

(1) Cleansed by the operator with a cleansing agent between each use;

(2) Covered by a nonreusable protective material during each use; or

(3) Cleansed by the consumer after use, provided the following conditions are met:

1. The operator instructs the consumer annually on how to properly cleanse the unit;

2. The consumer annually signs a statement that the consumer agrees to cleanse the unit after each use;

3. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and instructing the proper way to cleanse the unit; and

4. The operator cleanses the tanning unit at least once a day.

h. Records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. If maintained electronically, such records must be retrievable as a printed copy.

i. The operator shall limit a consumer's exposure to the maximum exposure frequency and session duration recommended by the manufacturer.

j. When a tanning device is being used, no other person can be allowed in the tanning device area.

k. "Unlimited" tanning packages cannot be advertised or promoted unless tanning frequency limits set by the manufacturer are included therein.

46.5(9) *Training of operators.*

a. All operators must satisfactorily complete a training program approved by the department prior to operating a tanning device that includes:

(1) Education on this chapter;

(2) Procedures for correct operation of the tanning facility and tanning devices;

(3) The determination of skin type of consumers and appropriate duration of exposure to tanning devices;

(4) Recognition of reaction or overexposure;

(5) Manufacturer's procedures for operation and maintenance of tanning devices; and

(6) Competency testing.

b. Owners and managers must complete formal training approved by the department. All owners and managers must satisfactorily pass a certification examination approved by the department before operating a tanning facility or training employees.

c. Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Operators will be questioned during inspections as to the level of their understanding and competency in operating the tanning device.

d. Proof of training for owner/managers and employees must be maintained in the tanning facility and available for inspection. The employee record should be the original test signed by the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge of the scoring key.

e. Operators shall be at least 16 years of age.

f. Training and testing will be completed every five years.

46.5(10) *Promotional materials.* A tanning facility shall not claim, or distribute materials claiming, that tanning devices are safe, that tanning devices are free from risk, or that 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.

46.5(11) *Electronically controlled facilities.* Electronically controlled facilities are facilities that rely on electronic means to monitor consumers.

a. Entry into the facility is allowed by card only. Only one individual may enter under each card. The card is specifically activated for tanning use if the facility offers other activities and tanning will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.

b. Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.

c. The consumer must sign a tanning agreement stating 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.

d. The card will be programmed for the number of minutes the consumer is allowed to tan and may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the tanning agreement. The card will be deactivated after 30 consecutive days without consumer access such that the consumer will then reapply to access the tanning unit.

e. The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once per day when they are in use.

f. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available and must be worn.

g. An emergency call button or device that calls the operator or emergency personnel will be placed in each tanning room conveniently located within reach of the tanning bed.

h. During annual inspections, the inspector may ask any consumer about any of the above processes.

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641—46.6(136D) Inspections, violations and injunctions.

46.6(1) *Access.* The director or an authorized agent has access to any tanning facility as authorized by Iowa Code section 136D.8.

46.6(2) *Civil penalty and enforcement.* The department may take legal action as provided in Iowa Code sections 136D.8(3) and 136D.9.

a. The department will take the following steps or use county ordinances or any other applicable ordinances, resolutions, rules or regulations when enforcement of these rules is necessary.

(1) Cite each section of the Iowa Code or rules violated and any civil penalty imposed.

(2) Specify the manner in which the owner or operator failed to comply.

(3) Specify the steps required for correcting the violation.

(4) Request a corrective action plan, including a time schedule for completion of the plan.

(5) Set a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the permit holder must respond with the corrective action plan and, if applicable, any reasons why the civil penalty should not be imposed or to request a contested case hearing pursuant to 481—Chapter 9.

b. The department will review the corrective action plan and approve it or require that it be modified.

[**ARC 7834C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 136D.

Appendix 1
POTENTIAL PHOTOSENSITIZING AGENTS

1. Not all individuals who use or take these agents will experience a photosensitive reaction or the same degree of photosensitive reaction. An individual who experiences a reaction on one occasion will not necessarily experience it again or every time.
2. Names of agents should be considered only as examples. They do not represent all the names under which a product may be sold. A more complete list is available from the facility operator.
3. If you are using an agent in any of these classes, you should reduce UV exposure even if your particular medication is not listed.

Acne treatment (Retinoic acid, Retin-A) Psoralens (5-Methoxypsoralen, 8-Methoxypsoralen, 4,5,8-trimethyl-psoralen)

Antibacterials (deodorant bar soaps, antiseptics, cosmetics, halogenated carbanilides, halogenated phenols, halogenated salicylanilides, bithionol, chlorhexidine, hexachlorophene)

Antibiotics, anti-infectives (Tetracyclines)

Anticonvulsants (carbamazepine, trimethadione, promethazine)

Antidepressants (amitriptyline, Desipramine, Imipramine, Nortiptyline, Protiptyline), Tranquilizers, anti-emetics (Phenothiazines)

Antidiabetics (glucose-lowering agents) (sulfonylureas, oral antidiabetics, hypoglycemics)

Antihistamines (diphenhydramine, promethazine, triprolidine, chlorpheniramine)

Anti-inflammatory (Piroxicam), Non-steroidal anti-inflammatory drugs (Ibuprofen, Naproxen, Piroxicam)

Antimicrobials (griseofulvin), Sulfonamides (“Sulfa drugs,” antimicrobials, anti-infectives)

Atropine-like drugs (anticholinergics, antiparkinsonism drugs, antispasmodics, synthetic muscle relaxants)

Coal tar and derivatives (Denorex, Tegrin, petroleum products used for psoriasis and chronic eczema and in shampoos)

Contraceptives, oral and estrogens (birth control pills, estrogens, progesterones)

Dyes (used in cosmetic ingredients, acridine, anthracene, cosin (lipstick), erythrosine, fluorescein, methyl violet, methylene blue, rose bengal)

Perfumes and toilet articles (musk ambrette, oil of bergamot, oil of cedar, oil of citron, oil of lavender, oil of lemon, oil of lime, oil of rosemary, oil of sandalwood)

Thiazide diuretics (“water pills”)

Appendix 2

SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

SKIN TYPE	SKIN REACTIONS TO SOLAR RADIATION [(a)] EXAMPLES	EXAMPLES
I	Always burns easily and severely (painful burn). Tans little or none and peels.	People most often with fair skin, blue eyes, freckles. Unexposed skin is white.
II	Usually burns easily and severely (painful burn). Tans minimally or lightly, also peels.	People most often with fair skin; red or blonde hair; blue, hazel or even brown eyes. Unexposed skin is white.
III	Burns moderately and tans about average.	Normal average Caucasoid. Unexposed skin is white.
IV	Burns minimally, tans easily, and above average with each exposure. Exhibits IPD (immediate pigment darkening) reaction.	People with white or light brown skin, dark skin, dark brown hair, dark eyes. Unexposed skin is brown.
V	Rarely burns, tans easily and substantially. Always exhibits IPD reaction.	Unexposed skin is brown.
VI	Never burns and tans profusely; exhibits IPD reaction.	Unexposed skin is black.

(a) Based in the first 45-60 minutes (= 2-3 minimum erythema dose) exposure of the summer sun (early June) at sea level

Appendix 3

POTENTIAL NEGATIVE HEALTH EFFECTS
RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening, age spots, irregular pigmentation, and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.
4. Increased risk of eye damage unless proper eyewear is worn. Iowa law requires the use of proper eyewear during tanning sessions.

TANNING SYSTEMS

1. Low-pressure tanning systems use a higher percentage of UVB rays that penetrate only the upper layer of skin and can cause burning more easily than high-pressure tanning systems. Low-pressure systems require more frequent sessions to maintain a tan.

High-intensity tanning systems use more lamps and shorter tanning sessions than low-intensity tanning systems. These are still classified as low-pressure systems.

2. High-pressure tanning systems use a higher percentage of UVA rays that penetrate more deeply and can permanently damage the lower layers of skin and increase the incidences of skin cancers. High-pressure systems require fewer and less frequent sessions to maintain a tan.
3. The exposure schedule for each specific unit is shown on the labeling on the tanning unit. Iowa law requires the operator to limit the exposure of each consumer to the exposure schedule shown on the unit in which the consumer is tanning.

These rules are intended to implement Iowa Code chapter 136D.

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