

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 795 TANNING FACILITIES CODE

SECTION 795.10 PURPOSE AND SCOPE

Section 795.10 Purpose and Scope

- a) This Part provides for the issuance of a permit to operate a tanning facility using ultraviolet lamps, and regulation of the maintenance and operation of tanning facilities.
- b) In addition to the requirements of this Part, all facilities are subject to the applicable provisions of other statutes or rules incorporated in this Part.
- c) Nothing in this Part shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or use by a physician licensed to practice medicine in all of its branches.

Section 795.20 Incorporated and Referenced Materials

The following materials are incorporated or referenced in this Part:

- a) Federal Laws and Rules
 - 1) Federal Food, Drug and Cosmetic Act (21 USC 301 et seq.)
 - 2) 21 CFR 801 Labeling (1992)
 - 3) 21 CFR Subchapter J Radiological Health (1992)
 - 4) 21 CFR 1003 Notification of Defects and Failure to Comply (1992)
 - 5) 21 CFR 1010 Performance Standards for Electronic Products: General (1992)

- 6) 21 CFR 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products (1992)
- b) State Laws and Rules
 - 1) Section 26-4 of the Criminal Code of 2012 [720 ILCS 5/26-4]
 - 2) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
 - 3) Department of Public Health Act [20 ILCS 2305]
 - 4) Local Health Protection Grant Rules (77 Ill. Adm. Code 615)
 - 5) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - 6) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - 7) Tanning Facility Permit Act [210 ILCS 145]
- c) Codes and Standards

Standard for Portable Sun/Heat Lamps, UL 482, Ninth Edition, September 2, 2005, http://www.ul.com/global/eng/pages/solutions/standards/accessstandards/catalogofstandards/standard/?id=482_9, Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook IL 60062.
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.
- e) Nothing in this Part shall relieve any person of responsibility for compliance with other pertinent Illinois and federal laws and regulations.
- f) Copies of these materials shall be on file and available for inspection by the public at the Department's central office (525 West Jefferson Street, Springfield IL 62761)

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.30 Definitions

The definitions and interpretations contained in section 201 of the Federal Food, Drug and Cosmetic Act, 21 CFR 1040.20, and the Illinois Food, Drug and Cosmetic Act are applicable to those terms when used in this Part. The following definitions shall also apply:

"Act" means the Tanning Facility Permit Act.

"Agent" means a local health department recognized by the Department.

"Applicant" means any person who applies to the Department for a permit to maintain and operate a tanning facility.

"Change of ownership" means any of the following:

In the case of a tanning facility owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a tanning facility owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a tanning facility owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person whether or not the owner retains any interest in the facility.

"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. (Section 5 of the Act)

"Department" means the Illinois Department of Public Health or other health authority designated as its agent. (Section 5 of the Act)

"Director" means the Director of Public Health or his or her designee. (Section 5 of the Act)

"Disinfect" or "disinfection" means a process that provides an effective concentration of a United States Environmental Protection Agency approved chemical for enough time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when those disease organisms that may be present are destroyed so as to prevent transfer) on tanning equipment surfaces and in toilet and hand-washing facilities.

"Existing facility" means a tanning facility that submitted an application for a permit to operate a tanning facility on or before March 8, 1993 and remains in

operation with an unexpired tanning facility permit at the same location under the same ownership as listed in the original tanning facility permit application.

"Expired facility" means a previously permitted tanning facility that has not renewed its tanning facility permit on or before the expiration date of the permit, except as provided in the definition of new facility.

"Extensively remodeled" means conversion of an existing structure for use as a tanning facility; structural additions or alterations to existing facilities; or changes, modifications or extensions of plumbing or electrical systems, excluding routine maintenance of the systems.

"Facility" means tanning facility.

"Fee" means the payment or exchange of goods, or anything of value, for the use of the tanning facility or facilities. (Section 5 of the Act)

"Individual" means any human being.

"Injury" means any circumstance or incident, resulting from the use of a tanning device that prompts a consumer to seek professional medical attention.

"Inspection" means an official examination or observation that includes, but is not limited to, tests, surveys, and monitoring to determine compliance with this Part.

"Licensee" means the same as "permittee".

"New facility" includes any tanning facility that submitted an initial application for a tanning facility permit on or after March 9, 1993. Previously permitted facilities that have changed location or ownership are considered to be new facilities upon their relocation or change of ownership. Expired facilities that fail to renew their tanning facility permit within 90 days after the permit expiration shall be considered new facilities.

"Operator" means the trained person designated by the licensee for the facility to control the operation of a tanning facility in compliance with the Act and this Part and to assist and instruct the public in the correct operation of the tanning facility and its equipment. (Section 5 of the Act)

"Other compensation" means the payment or exchange of goods, or anything of value, for use of the tanning facility or facilities. (Section 5 of the Act)

"Permanent" means a minimum of five years following the last attendance date for record keeping.

"Permit" means a permit issued by the Department in accordance with this Part.

"Permittee" means any person who is licensed by the Department in accordance with this Part.

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of Illinois, any other state or political subdivision or agency of any other state or political subdivision, and any legal successor, representative, agent, or agency of any of the entities listed.

"Personal use" means the use of tanning equipment in a private residence for the owner or owners of the residence and other individuals living at the residence.

"Private residence" means a place in which an individual, group or family can live and store personal property, such as a single-family detached home, apartment, duplex or condominium. Private residence does not mean an apartment complex or a condominium complex or community and does not apply to the common or public areas found in the complex or community.

"Photosensitizing agent" means any food, drug, cosmetic, toiletry or other substance, whether ingested or topically applied, that may induce hypersensitivity of an individual to exposure to the sun or other sources of ultraviolet radiation, resulting in inflammation of the skin and its underlying structures, often accompanied by edema.

"Protective eyewear" means eyewear that has been designed and tested in accordance with 21 CFR 1040.20. The protective eyewear shall allow for the required protection to ultraviolet radiation while also allowing for adequate vision to maintain balance and to locate the tanning equipment's "emergency cut-off" switch.

"Radiation" means ultraviolet radiation.

"Radiation machine" means any device capable of producing radiation.

"Registrant" means any person who obtains a permit or other entitlement from the Department, and who is obligated to obtain the permit or other entitlement from the Department pursuant to the Act and this Part.

"Registration" means registration with the Department in accordance with this Part.

"Tanning equipment" means sunlamp products and ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living body (Section 5 of the Act) and equipment that emits ultraviolet (UV) radiation used for tanning of the skin, such as a sunlamp, tanning booth, or tanning bed that emits

electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers. "Tanning equipment" includes, but is not limited to, any accompanying equipment, such as protective eyewear, timers, and handrails (Section 25(g)(2) of the Act) as well as, protective barriers, warning labels, recommended exposure schedules, and recommended exposure distances. Tanning equipment shall be manufactured in accordance with 21 CFR 1040.20.

"Tanning facility" or "tanning facilities" means a room or a booth or a group of rooms or booths, or a structure or business that houses ultraviolet lamps or products containing lamps intended for the irradiation of any part of the living body for cosmetic or nonmedical related purposes but does not include any hotel or motel guest rooms where sunlamps are installed in the restroom area. (Section 5 of the Act)

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

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.40 Exemptions

- a) Equipment intended for purposes other than the deliberate exposure of parts of the living human body to ultraviolet radiation and that produce or emit ultraviolet radiation incidental to its proper operation are exempt from the provisions of this Part.
- b) Radiation machines while in transit or storage are exempt from this Part.
- c) Any physician licensed to practice medicine in all of its branches, any licensed dentist, or any licensed podiatrist is exempt from this Part to the extent that the practitioner uses, in the practice of medicine, dentistry or podiatry, medical diagnostic and therapeutic equipment that emits ultraviolet radiation.
- d) Personal use by an individual in a private residence and by other individuals living at the residence is exempt from this Part to the extent that the individual owns the tanning equipment exclusively for personal use and no fee or other compensation is involved in the use of the tanning equipment.

(Source: Amended at 38 Ill. Reg. 11802, effective May 21, 2014)

Section 795.50 Liability

Compliance with this Part does not affect the liability of a tanning facility permittee or operator or a manufacturer of a tanning device.

Section 795.60 Application for Permit to Operate a Tanning Facility

- a) Each person shall apply to the Department for a permit to operate a tanning facility prior to acquiring or establishing the operation of a tanning facility. Application for a permit shall be completed on forms prescribed by and available from the Department and shall contain all of the information required by the form (see subsection (c)) and any accompanying instructions. Unless otherwise stated, the term "application" as used in this Part shall include original and renewal applications.
- b) If a change of ownership occurs, the new owner shall apply for a permit to operate a tanning facility prior to taking possession of the property. The Department may issue a provisional permit until an initial inspection for a permit can be performed by the Department or its designated agent.
- c) The Department shall require at least the following information on the Application for Permit to Operate a Tanning Facility form:
 - 1) Name, physical address, mailing address and telephone number or numbers of the following:
 - A) The tanning facility;
 - B) The applicant (owner or owners) of the tanning facility;
 - 2) The manufacturer, model number, serial number, and year of manufacture of tanning equipment located within the facility;
 - 3) The primary function of the business in which the tanning facility is located;
 - 4) The geographic areas within the State to be covered, if the facility is mobile;
 - 5) A copy of the operating procedures to be used in the tanning facility;
 - 6) The hours of operation of the tanning facility; and
 - 7) A signed and dated certification that the applicant has received, read and understood the requirements of this Part. Electronic signatures shall be acceptable for online application submission when an online application is made available by the Department.
- d) Each initial application shall be submitted with a nonrefundable \$250 fee.

- e) Each annual renewal application shall be submitted with a nonrefundable \$150 fee, except that each expired facility shall pay a nonrefundable \$250 fee for renewal of the permit.
- f) If the owner owns or operates more than one tanning facility, the owner shall file a separate application and submit a separate fee for each facility owned and operated.
- g) Expired facilities that fail to pay a nonrefundable \$250 permit renewal fee within 90 days after the permit expiration shall submit a new permit application and comply with requirements for new facilities in order to receive a tanning facility permit.

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.70 Issuance of Permit to Operate a Tanning Facility

- a) Within 90 days after receipt of each application, the Department or its designated agent shall complete the initial inspection of the premises of such tanning facility and ensure that the premises and tanning facilities are installed and will be operated in accordance with the Act and this Part.
- b) Upon submission of the application and the required fee, and if the initial and subsequent inspections indicate that the premises and tanning facilities are installed and will be operated in accordance with the Act and this Part, the Department shall issue a permit to operate the tanning facility.
- c) The Department may stagger permit renewal dates on a quarterly basis with an initial permit being effective from 9 months to 15 months.
- d) With the exception of tanning facilities in operation on the effective date of this Part, pursuant to Section 795.60(a), no person shall operate a tanning facility until the Department has issued the permit to operate.
- e) Permits issued by the Department shall be displayed in a conspicuous place within sight of the public when entering the premises of the tanning facility.

Section 795.80 Expiration of Permit to Operate a Tanning Facility

Each permit to operate a tanning facility shall expire at the end of the specified last day of the month and year stated therein.

Section 795.90 Renewal of Permit to Operate a Tanning Facility

- a) Application for renewal of a permit shall be filed in accordance with Section 795.60.
- b) In order to renew a permit, a permittee shall file a complete application for renewal with the Department not less than thirty (30) days prior to the expiration of his/her permit, whereupon the permittee's existing permit shall not expire until the renewal application status has been finally determined by the Department.
- c) The Department may refuse to renew the permit of any owner or operator who has been found to be in violation of the Act or this Part for the safe operation of tanning facilities.
- d) Each tanning facility shall be inspected at least once each year after the initial year in which the facility was granted a permit.
- e) Each tanning facility which fails to submit an application for renewal of its permit to operate a tanning facility prior to the expiration of the permit shall pay a nonrefundable \$250 fee for the renewal of the permit.
- f) Any facility that fails to submit a complete renewal application and fee as required in this Part shall be deemed to be operating without a permit and shall be subject to prosecution therefor.
- g) A facility subject to prosecution pursuant to subsection (f) of this Section may continue operation upon submission by the facility owner of a new, fully completed permit application in accordance with Section 795.60(c), (d) and (e), including a nonrefundable \$250 fee, and correction, to the satisfaction of the Department, of every deficiency found by the Department and its agents in the most recent inspection. Permits issued pursuant to such application shall expire one year from the expiration date of the previously issued permit.

(Source: Amended at 20 Ill. Reg. 2422, effective February 1, 1996)

Section 795.100 Report of Changes

- a) The facility owner shall notify the Department in writing before making any change that would render the information in the application, reported pursuant to Section 795.60, no longer accurate. This requirement shall not apply to changes involving replacement of the original equipment lamp types that have been determined to be compliant or lamps designed to meet the criteria as being "compatible" with the provisions set forth in 21 CFR 1040.20.
- b) The facility owner shall maintain, at the facility, manufacturer's literature or federal Food and Drug Administration certification demonstrating the equivalency of any replacement lamps.

- c) The facility shall maintain a log noting the date of installation, the location in the unit, and a description (lamp name, model or serial designation) of all replacement lamps in each piece of tanning equipment.

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.110 Non-Transfer of Permit

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

Section 795.120 Approval Not Implied

- a) No person, in any advertisement, shall refer to the fact that he or his facility has a Permit to Operate a Tanning Facility issued by the Department pursuant to the provisions of Section 795.70, and no person shall state or imply that any activity under such permit has been approved by the Department.
- b) Tanning facilities shall not claim, advertise or distribute promotional materials which claim that using a tanning device is safe or free from risk.

Section 795.130 Denial, Suspension, Revocation or Non-Renewal of a Permit to Operate a Tanning Facility

The Department may deny, suspend, revoke or refuse to renew a permit to operate a tanning facility sought or issued pursuant to this Part for any of the following reasons:

- a) Failure to submit information required pursuant to Section 795.60 that demonstrates that the tanning facility will be constructed, operated and maintained in accordance with the requirements of this Part;
- b) Submission of incorrect, false or misleading information in the documents required under this Part;
- c) Failure to construct, operate or maintain the tanning facility in accordance with this Part, except as the maintenance may involve the replacement of lamps by "equivalent" lamps as defined in Section 795.100;
- d) Operation of the tanning facility in a way that causes or creates a nuisance or hazard to the public health or safety;
- e) Violation of the Act or this Part;
- f) Violation of any condition upon which the permit was issued;

- g) Failure to allow duly authorized agents of the Department or its designated health authorities to conduct inspections of the facility;
- h) Conviction of an applicant or permit holder of an offense arising from false, fraudulent, deceptive, or misleading advertising (The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.);
- i) Revocation of a permit during the past five years, or surrender or expiration of the permit during the pendency of action by the Department to revoke or suspend the permit during the previous five years, if before the permit was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior permit;
- j) Payment of permit fees or fines with checks returned for non-sufficient funds;
- k) Failure to pay any permit fees or applicable fines; or
- l) Allowing anyone under the age of 18 years to use a permitted facility's tanning equipment.

(Source: Amended at 38 Ill. Reg. 11802, effective May 21, 2014)

Section 795.140 Hearings

If any permit is denied, suspended, revoked or denied renewal by the Department, the applicant may request a hearing in accordance with the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

Section 795.150 Construction and Operation of Tanning Facilities

Each tanning facility shall be constructed, operated and maintained to meet the following minimum requirements:

- a) **Physical facilities**
The following warning sign, provided by the Department, shall be conspicuously posted within 3 feet of each piece of tanning equipment; it shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item so that the user can easily view the warning sign before energizing the ultraviolet light generating equipment:

Danger – Ultraviolet Radiation. (This indented heading must be in upper case letters.)

- Follow instructions.

- Avoid too frequent or lengthy exposure. As with natural sunlight, exposure to a sunlamp may cause eye and skin injury, sunburn and allergic reactions. Repeated overexposure may cause chronic damage characterized by wrinkling, dryness, premature aging of the skin, and skin cancer.
- Wear protective eyewear.
- Failure to use protective eyewear may result in severe burns or long-term injury to the eyes. (This sentence must be in upper case letters.)
- Ultraviolet radiation from sunlamps enhances the effects of the sun. Do not sunbathe before or after exposure to ultraviolet radiation.
- Abnormal or increased skin sensitivity or burning may be caused by certain foods, medications (including, but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medication, birth control pills, and skin creams), cosmetics or toiletries. Consult a physician or pharmacist before using a sunlamp if you are using prescription or non-prescription medications, have a history of skin problems, or believe yourself especially sensitive to sunlight. Pregnant women and women on birth control pills who use a tanning device may develop discolored skin.
- If you do not tan in the sun, you are unlikely to tan from the use of this product.
- Use of a tanning device may not provide a protective base in regard to sun exposure.

b) Requirements for Tanning Devices

- 1) Only tanning equipment manufactured in accordance with 21 CFR 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products", shall be used in tanning facilities.
- 2) Each piece of tanning equipment shall have a timer that complies with 21 CFR 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. A timer interval shall not have an error greater than plus or minus 10% of the maximum timer interval for the product.
- 3) Each piece of tanning equipment shall have a control to enable the consumer to manually terminate radiation without physically disengaging the electrical power or having contact with the ultraviolet lamp or lamp sockets.

- 4) All tanning equipment electrical circuits shall be labeled with the symbol of the Underwriters Laboratory (UL), Electrical Testing Laboratories (ETL), Applied Research Laboratories (ARL) or Canadian Standards Association (CSA) or an equivalent.
- 5) Physical barriers shall be in place to protect consumers from injury induced by touching or breaking the lamps. Each ultraviolet lamp shall be shielded to prevent contact with the consumer. Plastic sheaths inserted over individual lamps are not acceptable physical barriers.
- 6) Each tanning facility shall be equipped to dissipate heat so that the ambient temperature does not exceed 100° F or 38° C.
- 7) Defective or burned-out lamps, bulbs or filters shall be replaced with a lamp, bulb or filter of the same spectral ultraviolet distribution intended for use in that device as specified on the product label on the tanning equipment, or with equivalent lamps, bulbs or filters that have been determined to meet the requirements and specifications of 21 CFR 1040.20.
- 8) Floors in rooms containing tanning equipment are to be constructed of nonabsorbent, easily cleanable materials. New tanning facilities shall not include carpeting in rooms containing tanning equipment. Existing facilities with carpeting in rooms containing tanning equipment shall remove the carpeting whenever the facilities are remodeled.

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.160 Additional Requirements for Stand-Up Booths

- a) 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 consumer's skin.
- b) The construction of the booth shall be such that it will withstand the stress of use.
- c) Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails for the consumer to grasp during operation of the tanning equipment shall be provided; non-slip floors shall be provided.

Section 795.170 Protective Eyewear

- a) Each consumer shall be provided with protective eyewear before each tanning session, with instructions for its mandatory use.

- b) Protective eyewear shall meet or exceed the requirements of 21 CFR 1040.20(c)(4). Tanning facilities shall maintain documentation to verify that protective eyewear meets federal requirements.
- c) Protective eyewear 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.) as follows:
 - 1) immersion for at least one (1) minute in a clean solution containing at least two hundred (200) milligrams per liter (parts per million) of available quaternary ammonium compound at a temperature of at least seventy-five degrees Fahrenheit (75° F.); or
 - 2) immersion for at least one (1) minute in a clean solution containing at least fifty (50) milligrams per liter (parts per million) of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75° F.); or
 - 3) immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) milligrams per liter (parts per million) of available iodine and at a pH of which the efficacy has been demonstrated to be effective by the manufacturer and at temperature of at least seventy-five degrees Fahrenheit (75° F.); or
 - 4) immersion in a clean solution containing any other chemical sanitizing agent registered by the United States Environmental Protection Agency (U.S.E.P.A.) and specifically manufactured for use with protective eyewear that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) milligrams per liter (parts per million) of available chlorine as hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75° F.) for one (1) minute.
- d) A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million shall be used to measure the strength of the sanitizing solution at least once each day of tanning facility operation or more frequently as needed to ensure sufficient strength of the sanitizing solution.
- e) Exposure of protective eyewear and other tanning equipment to the ultraviolet radiation produced by the tanning equipment itself shall not be considered a sanitizing agent.
- f) Each consumer shall wear the protective eyewear as instructed. The operator shall not allow a consumer to use a tanning device if the consumer will not wear compliant protective eyewear.

Section 795.180 Operators

- a) All employees designated as operators shall be trained on the correct and compliant operation of the facility and its equipment. Employees shall not be allowed to work as operators until they have completed the required training. Training shall include:

- 1) Knowledge of the requirements of this Part and of 21 CFR 1040.20;
- 2) Interpretation of recommended exposure schedules as included by manufacturers on equipment labels;
- 3) Procedures for correct operation of the tanning facility;
- 4) Recognition of injuries and the facility's procedures of handling injuries from overexposure to ultraviolet radiation;
- 5) Manufacturer's procedures for operation and maintenance of the tanning device;
- 6) Use of protective eyewear;
- 7) Emergency procedures in case of injury;
- 8) Effects of ultraviolet radiation, effects of acute and chronic exposure, biological effects, and health risks;
- 9) Photosensitizing agents; and
- 10) The six different skin types, in accordance with Appendices A and B.

- b) The facility shall maintain a list of the facility's operators who have been trained in accordance with subsection (a), noting the date of training, hours spent in training and specific materials used in training. The list shall be available at the facility for inspection by the Department or its designated agent.

- c) A trained operator shall be present at the tanning facility during all operating hours, while tanning equipment is in operation. Consumers shall not be allowed to use the tanning equipment in the absence of a trained operator.

- d) The operator shall instruct the consumer in the proper position to be maintained in relation to the tanning lamps; the position of the safety railing, if applicable; the manual switching device to terminate the radiation in case of emergency and reasonable exposure time.

- e) Operators shall limit each consumer to the maximum exposure time as recommended by the manufacturer, taking the consumer's skin type into

consideration. Operators shall not allow use of tanning equipment by consumers who have used the services of a tanning facility within the immediately previous 24 hours.

- f) Operators shall keep a list of emergency telephone numbers in view at each tanning facility. This list shall include the telephone numbers of the following:
 - 1) Closest hospital;
 - 2) Fire department; and
 - 3) Emergency medical services or 911 service, if available.
- g) The operator shall maintain a list of common photosensitizing agents available for inspection by consumers.
- h) An establishment shall not provide for the use of tanning equipment operated via tokens in the absence of a trained operator.
- i) A facility shall not sell, or otherwise make available to any individual, tokens used to operate tanning equipment in quantities greater than the tanning equipment manufacturer's maximum recommended exposure time for the individual.

(Source: Amended at 38 Ill. Reg. 23142, effective November 24, 2014)

Section 795.190 Records

- a) At the consumer's initial visit to a tanning facility, and at least annually after the initial visit, the consumer shall be given a written statement of warning as described in Section 795.150(a) and shall sign a written statement acknowledging that he/she has read and has understood the warning statement. For illiterate or visually handicapped persons, the operator shall read the warning statement to the consumer in the presence of a witness. Both the witness and the operator shall sign the statement, indicating that it has been read to the consumer.
- b) Each consumer desiring to use the facility shall fill out a form specifying all prescription medicines and over-the-counter (non-prescription) medications the consumer is taking, and any cosmetics and toiletries, including any tanning accelerators, he or she may have applied prior to using the tanning facility. The consumer shall certify that he or she has not used the services of a tanning facility within the immediately previous 24 hours. The form or record shall be kept as a confidential, permanent part of the record of the individual's attendance and progress. Information concerning a consumer's prescription and non-prescription medications as listed on the required form or record shall not be released to any person without the written consent of the consumer. The information shall be

made available to the Department or an agent of the Department during the regular course of an inspection.

- c) No person under 18 years of age shall be allowed to use tanning equipment, either alone or in the presence of another individual. Proof of age shall be verified by a government-issued identification (ID) that contains both a birth date and picture. A copy of the ID shall not be required to be maintained on site.
- d) The facility operator shall keep a record of each consumer's total number of tanning visits, dates and duration of tanning exposures and the tanning equipment used. The records shall be kept as a permanent part of the record of the individual's attendance and progress. Records shall be maintained and available for inspection for a minimum of five years past a facility's termination of business.
- e) Information required by this Section that the facility maintains on computer systems shall be regularly copied, at least monthly, and updated on storage media other than the hard drive of the computer.

(Source: Amended at 38 Ill. Reg. 11802, effective May 21, 2014)

Section 795.200 Injury Reports

A written report of any tanning injury or alleged injury shall be sent to the Department by the facility within ten (10) working days after its occurrence or knowledge thereof. The report shall include:

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

Section 795.210 Sanitation

- a) The operator shall provide the consumers of the tanning facility access to toilet and handwashing facilities with hot and cold running water. Such facilities shall meet the following requirements:
 - 1) they shall be cleaned and disinfected at least once every 24 hours,
 - 2) they shall contain bar, liquid or powdered hand-cleaning soap in a dispenser, and
 - 3) they shall contain paper towels and a conveniently located receptacle for used paper towels, or a hand-drying device. Common towels are prohibited.
- b) Each consumer shall have access at all times to a safe and sanitary supply of drinking water.
- c) Each facility shall provide to its consumers cloth towels or disposable paper towels which may not be shared. Cloth towels must be laundered with soap or detergent after each use.
- d) The operator shall have responsibility for disinfecting all surfaces with which consumers have had contact within tanning devices, after each consumer's use. Disinfection shall be carried out using a U.S.E.P.A. registered disinfectant.
- e) 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.
- f) Floors are to be made dry prior to each individual's use.
- g) If showers are provided:
 - 1) hot water shall be at a temperature between 110-130 degrees Fahrenheit (110-130° F.);
 - 2) shower floors shall be constructed of a non-absorbent, non-slippery material, and sloped toward a properly installed floor drain. The use of duckboards or rubber mats in the shower is not permitted; and
 - 3) shower floors and walls shall be cleaned and disinfected at least every twenty four (24) hours.
- h) 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.

- i) All equipment and fixtures in the facility, if appropriate, shall be installed in accordance with the Illinois Plumbing Code, and applicable gas fitting and electrical wiring standards, as appropriate.
- j) Dogs, cats, birds, reptiles and other pets shall not be permitted in tanning facilities. This exclusion does not apply to guide dogs or fish in aquariums.

Section 795.220 Enforcement and Penalties

- a) Any tanning facility operating without a valid permit or operating on a revoked permit shall be guilty of committing a public nuisance.
- b) A person convicted of knowingly maintaining a public nuisance commits a Class A misdemeanor. Each subsequent offense under the Act is a Class 4 felony.
- c) Penalties or fines shall not exceed \$1,000 per day for each day the permit holder remains in violation.
- d) In addition to any other action authorized by the Act or this Part, the Department may assess fines against a tanning facility for violation of any provision of the Act or this Part. The Department shall review each inspection report according to criteria in subsections (e) through (h).
- e) The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed.
 - 1) Whether a violation has been noted on an inspection report, and whether the facility corrected the violation.
 - 2) Whether the facility or owner has previously been cited for a violation of the Act or this Part, except that any previously cited violation shall not be considered if the violation was held to be unfounded or unapproved by a final order of the Department or by a court of competent jurisdiction, or if any previous citations for violations occurred more than three years prior to the current violation.
 - 3) Whether the violation creates the possibility of injury or other harm to the environment, to the owner's employees, to the building owner, to users or occupants, or to the general public.
 - 4) Whether the violation appears to be the result of any degree of negligence by the owner, the operator, or the owner's other employees.
 - 5) Whether the owner demonstrated good faith efforts (e.g., taking steps to correct or agreeing to correct the cited violations within a specified period

of time) to correct the violations upon receipt of oral or written notice of the violation and whether the actions corrected the violation.

- f) The following criteria shall be used to determine the amount of a fine, and all amounts determined pursuant to the criteria shall be added together to determine the total fine against the tanning facility:
- 1) For each violation related to the operation of a tanning facility without having submitted an application for a permit to operate a tanning facility, pursuant to Section 795.60: \$250.
 - 2) For each violation related to the failure to notify the Department of changes to the information specified in the permit application, pursuant to Section 795.100: \$50.
 - 3) For each violation related to the failure to maintain an equipment maintenance log, as required by Section 795.100: \$100.
 - 4) For each violation related to the failure to post warnings as required by the Act and Section 795.150(a): \$100.
 - 5) For each violation related to tanning equipment timers that fail to operate in accordance with the manufacturer's recommended exposure limit as required by Section 795.150(b)(2): \$250.
 - 6) For each violation related to the presence of tanning equipment that fails to incorporate a manual control that allows the user to terminate radiation, as required by Section 795.150(b)(3): \$250.
 - 7) For each violation related to the presence of tanning equipment lacking physical barriers to protect consumers from injury induced by touching or breaking the lamps, as required by Section 795.150(b)(6): \$250.
 - 8) For each violation related to the use of lamps and bulbs that are not certified for use in the equipment in which they are found to be installed, as required by Section 795.150(b)(8): \$250.
 - 9) For each violation related to the absence of an adequate supply of eyewear meeting the specifications of 21 CFR 1040.20, as required by Section 795.170(a): \$250.
 - 10) For each violation related to the failure to properly sanitize eyewear in accordance with Section 795.170(c): \$100.

- 11) For each violation related to allowing consumers to use tanning equipment without use of protective eyewear as required by Section 795.170(f): \$250.
 - 12) For each violation in which the tanning facility was operated in the absence of a trained operator, as required by Section 795.180(c): \$250.
 - 13) For each violation related to the failure to maintain consumer use records, as required by the Act and Section 795.190: \$250.
 - 14) For each violation related to the failure to maintain prescription and non-prescription drug information required by Section 795.190(b) in a confidential manner: \$500.
 - 15) For each violation allowing the use of tanning equipment by persons under the age of 18, as prohibited by Section 795.190(d): \$250.
 - 16) For each violation in which an injury resulting from the use of the tanning equipment was not reported to the Department, as required by Section 795.200: \$500.
 - 17) For each violation related to the failure to provide proper sanitation of tanning equipment or the tanning facility, as required by Section 795.210: \$100.
- g) Violations of any provision of the Tanning Facility Permit Act or any provision of this Part shall be issued as the following:
- 1) First violation – the permittee shall be issued a warning letter.
 - 2) Second violation – the permittee shall be issued a fine according to this Section. The repeat violation fine will be a minimum of \$250 plus a fine according to this Section.
 - 3) Third violation – the permittee shall be issued a fine according to this Section. The repeat violation fine will be a minimum of \$500 plus a fine according to this Section. The permittee shall be notified of the Department's intent to revoke the permit and shall be offered a hearing in accordance with Section 795.140.
- h) Each day that a violation exists shall constitute a separate violation.
- i) The Department shall serve any notice of assessment of fine on the permittee in the same manner as any notice of permit revocation provided pursuant to the Act and this Part, and the permittee shall have the same rights and opportunity for hearing as elsewhere provided pursuant to the Act and this Part. If the permittee

does not request a hearing within the time allowed by the Act and this Part, the fine assessed shall be due in full at the expiration of time allowed to request a hearing.

- j) All fine assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law [735 ILCS 5/Art. III], unless the permittee has within that time filed proceedings in administrative review specifically appealing the fine assessment and unless the court has stayed the enforcement of the fine assessment.
- k) Following the issuance of the notice of violation, the Department or its agent will reinspect a facility to determine compliance with the Act and this Part.

(Source: Amended at 38 Ill. Reg. 11802, effective May 21, 2014)

Section 795.APPENDIX A Examples of Human Skin Types

Skin Types	Sun Sensitivity	Pigmentary Response
I	Always burns easily	Little or no tan
II	Always burns	Minimal tan
III	Sensitive, burns moderately	Tans gradually
IV	Moderately sensitive, burns minimally	Tans easily, light brown
V	Minimally sensitive, burns rarely	Tans darkly, dark brown
VI	Insensitive, does not burn	Darkly pigmented

Section 795.APPENDIX B Determination of Skin Types

A. Determination based on your hereditary disposition	0	1	2	3	4	Your Points Per Question
1. What is the color of your eyes?	Light blue gray or green	Blue, gray or green	Blue	Dark brown	Brownish black	
2. What is the color of your hair?	Sandy red	Blond	Chestnut/dark blond	Dark brown	Black	
3. What is the color of your uniradiated skin?	Reddish	Very Pale	Pale with beige tint	Light brown	Dark brown	
4. Are there freckles on your uniradiated skin?	Many	Several	Few	Incidental	None	
B. Determination based on your own experience with sunbathing (to the unexposed skin).	0	1	2	3	4	
1. What happens when you stay long in the sun?	Painful redness, peeling, blistering	Burns regularly with peeling	Burns sometimes with peeling	Burns rarely	Never burns	
2. To what degree do you turn brown?	Hardly or not at all brown	Tans a little, a light color	Tan reasonably	Tans very easily	Quickly turns dark brown	
3. Do you turn gray-brown directly after (within several hours) sunbathing	Never	Hardly	Sometimes	Often	Always	
4. How does your face react to the sun?	Very sensitive	Sensitive	Normal	Very resistant	Never a problem	
C. Your tanning habits	0	1	2	3	4	
1. When sunbathing, do you try to tan your whole body?	Never	Hardly ever	Sometimes	Often	Always	
2. When did you last sunbathe (even under a sunlamp)?	More than 3 months ago	2-3 months ago	1-2 months ago	Less than a month ago	Less than 16 days ago	
					TOTAL	

Total Score	Skin Sensitivity	Skin behavior estimate (possibly exposed)
0 - 7	Very sensitive	I
8 - 16	Sensitive	II
17 - 25	Normal	III
> 25	Very resistant	IV

