

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 52 PREVENTIVE MEDICINE

Chapter 06 Use of Tanning Devices by Minors

Authority: Health-General Article, §20-106, Annotated Code of Maryland

10.52.06.01

- A. This chapter establishes regulations on the use of tanning devices by minors.
- B. Nothing in this chapter preempts a county or municipal government from enacting and enforcing more stringent measures to regulate the use of tanning devices by minors.

10.52.06.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Customer" means a member of the public who is provided access to a tanning device in exchange for a fee, membership dues, or other compensation.
 - (2) "Department" means the Maryland Department of Health and Mental Hygiene.
 - (3) "Health officer" means the health officer of each of the 23 counties in Maryland and the Commissioner of Health in Baltimore City, the duly designated representative of the health officer, or both.
 - (4) "Minor" means an individual younger than 18 years old.
 - (5) "Owner" means an individual or entity having an ownership interest in a tanning facility.
 - (6) "Person-in-charge" means an owner, operator, manager, employee, or other individual who controls, governs, or directs the activities of a tanning facility and is present on site.
 - (7) "Radiation" means ultraviolet radiation.
 - (8) "Secretary" means the Secretary of Health and Mental Hygiene or the Secretary's designee.
 - (9) "Tanning device" means any equipment that emits radiation used for tanning of the skin, including sunlamps, tanning booths, or tanning beds.
 - (10) "Tanning facility" means any place where a tanning device is used for a fee, membership dues, or other compensation.

10.52.06.03 Exclusions.

This chapter does not apply to tanning devices intended for use:

- A. Other than for the tanning of human skin; or
- B. For phototherapy by health professionals trained in the treatment of disease.

10.52.06.04 Tanning of Minors.

A person-in-charge may not allow a minor to use a tanning device at a tanning facility without a signed consent form as set forth in Regulation .05 of this chapter.

10.52.06.05 Written Consent.

- A. The Department shall specify the wording and content of a consent form for the use of tanning devices by minors and make the specifications available at the Department's website and at local health departments.

B. A person-in-charge shall use the wording and content of the consent form approved by the Department as noted in §A of this regulation in the consent form used in a tanning facility.

C. A person-in-charge shall ensure that a minor's parent or legal guardian signs a consent form that permits the minor to use a tanning device at the tanning facility.

D. A person-in-charge shall:

(1) Ensure that a minor's parent or legal guardian signs a consent form in the presence of the person-in-charge; and

(2) Provide a copy of the signed consent form to the parent or legal guardian.

E. A person-in-charge shall verify the identity of the parent or legal guardian with a State or federal government-issued identification card.

10.52.06.06 Verification of Age.

A person-in-charge may not allow a customer to use a tanning device at a tanning facility without:

A. Confirmation, with a State or federal government-issued identification card, that the individual is not a minor; or

B. For a minor, an unexpired signed consent form as set forth in Regulation .05 of this chapter.

10.52.06.07 Record Keeping.

An owner, operator, or manager of a tanning facility shall:

A. Maintain a record for each minor customer that includes:

(1) The dates the minor uses a tanning device at the facility;

(2) The duration of exposure to a tanning device at the facility for each minor for each session;

(3) The minor's cumulative exposure to a tanning device at the facility; and

(4) A signed consent form as set forth in Regulation .05 of this chapter; and

B. Upon request, ensure that the minor's parent or legal guardian is able to review the record as set forth in §A of this regulation.

10.52.06.08 Complaints and Investigations.

A. A person may report a violation of this chapter by a written or telephone complaint to the health officer in the jurisdiction where the alleged violation took place.

B. The Department shall make available a complaint form at the Department's website and at a local health department.

C. Upon receipt of a complaint, the health officer shall investigate the complaint.

10.52.06.09 Enforcement.

A. A health officer may investigate conditions relative to the enforcement of this chapter.

B. The person-in-charge of a tanning facility shall permit a health officer to enter the tanning facility during business hours for the purpose of determining compliance with this chapter.

C. If an investigation is made, the health officer shall:

(1) Document:

(a) The result of the investigation on a report form provided by the Department; and

(b) A condition found that is in violation of a provision of this chapter;

(2) Furnish one copy of the report form to the person-in-charge of the tanning facility; and

(3) Make the completed report form available for public disclosure in accordance with the Maryland Public Information Act, State Government Article, §§10-611—10-628, Annotated Code of Maryland.

10.52.06.10 Violations and Certification of Correction.

A. The health officer shall provide the owner of a tanning facility found in violation of a provision of this chapter or Health-General Article, §20-106, Annotated Code of Maryland, with a written notice that contains:

- (1) The specific finding and, if applicable, the penalty for the violation, as set forth in Regulation .11 of this chapter;
 - (2) A specific date by which the owner shall correct the violation;
 - (3) A provision that, if the owner fails to correct the violation by the date specified or is in violation of another provision of Health-General Article, §20-106, Annotated Code of Maryland, at another time, the Secretary may impose a subsequent penalty, if applicable, as set forth in Regulation .11 of this chapter; and
 - (4) A provision that the owner is entitled to request a hearing under Regulation .12 of this chapter on a violation with a penalty.
- B. The owner of a tanning facility shall submit to the health officer a written certification of correction within a time frame provided by the local health department that states:
- (1) The violation; and
 - (2) How the violation was corrected.

10.52.06.11 Penalties.

The penalties for a violation of Regulation .04, .05C, D, or E, or .06 of this chapter, or of Health-General Article, §20-106, Annotated Code of Maryland, are:

- A. A letter of reprimand for the first violation;
- B. A civil penalty of \$250 for a second violation;
- C. A civil penalty of \$500 for a third violation; and
- D. A civil penalty of \$1,000 for each subsequent violation.

10.52.06.12 Request for Hearing.

- A. A person who receives a notice of violation with a penalty for a violation of Regulation .04, .05C, D, or E, or .06 of this chapter, or of Health-General Article, §20-106, Annotated Code of Maryland, may request a hearing on the notice of violation with a penalty.
- B. In order to preserve a right to a hearing on a violation with a penalty under this chapter, if a hearing is desired, a person shall submit a written request to the Department's Environmental Health Coordination Program under the Community Health Administration for a hearing within 10 days of receipt of the notice of violation with a penalty.
- C. In accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, the Secretary shall provide for a hearing on the violation with a penalty by referring the matter to the Office of Administrative Hearings.
- D. The Office of Administrative Hearings shall:
 - (1) Schedule and conduct the hearing on the violation with a penalty; and
 - (2) Render a decision and notify the parties of the decision within 90 days after the hearing.