



State of Louisiana
Department of Health and Hospitals
Office of Public Health

September 10, 2015

TO: The Honorable John A. Alario, Jr., President, Louisiana Senate
The Honorable Charles E. "Chuck" Kleckley, Speaker of the House of Representatives
The Honorable David R. Heitmeier, Chairman, Senate Committee on Health and Welfare
The Honorable Scott M. Simon, Chairman, House Committee on Health and Welfare

FR: Kathy Kliebert, Secretary

*Approved
JK*

RE: Required Legislative Oversight Committee Report on Proposed Rulemaking

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to recodify the Chapter 12 regulations originally promulgated in the March 20, 1992 edition of the Louisiana Register in accordance with Act 587 of 1990 and to amend the newly recodified Sections 1201-1247 of Part I of Title 49 of the Louisiana Administrative Code to reflect administrative changes and to comply with the requirements of Act 193 of 2014.

These changes are required to enforce the new ban on minors' use of tanning equipment enacted during the recent Regular Session of the Louisiana Legislature.

This proposed rule is being submitted as a Notice of Intent in accordance with R.S. 49:950-974. Attached, please find a:

- 1) Copy of the proposed rule;
- 2) Fiscal and Economic Impact Statement as approved by the Legislative Fiscal Office;
- 3) Family Impact Statement;
- 4) Poverty Impact Statement;
- 5) Regulatory Flexibility Analysis/Small Business Impact Statement; and
- 6) Provider Impact Statement.

Should you have any questions, please contact Brian R. Warren, Food and Drug/Milk and Dairy Unit, Office of Public Health, by telephone at (225) 342-7514.

KK:JG;JTL:RR:TS

cc: Jimmy Guidry, MD, State Health Officer
J.T. Lane, Assistant Secretary, OPH
Avis Richard-Griffin, Rulemaking Liaison Officer, PPE, OPH

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Tanning (LAC 49: I.1201-1247)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to recodify the Chapter 12 regulations originally promulgated in the March 20, 1992 edition of the Louisiana Register in accordance with Act 587 of 1990 and to amend the newly recodified Sections 1201-1247 of Part I of Title 49 of the Louisiana Administrative Code to reflect administrative changes and to comply with the requirements of Act 193 of 2014. These changes are required to enforce the new ban on minors' use of tanning equipment enacted during the recent Regular Session of the Louisiana Legislature.

Title 49 FOOD, DRUG AND COSMETIC REGULATIONS Part I. General Regulations

Chapter 12. Tanning Facility Regulations

§1201. Purpose and Scope [formerly 49:8.0000]

A. These regulations provide for the registration, certification and regulation of facilities and equipment which employ ultraviolet and other lamps for the purpose of tanning the skin of the living human body through the application of ultraviolet radiation.

B. The current statutory provisions in R.S. 40:2701 through 2719 as enacted by Act No. 587 of 1990 indicates that the owner or proprietor of each tanning parlor facility must apply for a certificate of registration as well as a separate permit from the department of Health and Hospitals. In order to implement Act No. 587 of 1990 efficiently, and to accomplish the desired regulatory results in the best interest of the public health, the department will require a single application to register and obtain a permit for each tanning parlor facility in the state. Upon completion of processing, which includes inspection of each such facility by a department employee, only a single certificate of registration and permit will be issued. The combined instrument will expire at midnight on the date specified on the face of the document, and it must be renewed annually, as further specified in these regulations.

C. Nothing in these regulations shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or therapy other than skin tanning, provided such treatment or therapy is supervised by a licensed practitioner of the healing arts in the lawful practice of their profession, in accordance with the requirements of their professional licensing board to prescribe and supervise such treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), Amended LR 40:

§1203. Authority [formerly 49:8.0010]

A. These regulations are promulgated under authority of the Tanning Facility Regulation Act comprising R.S. 40:2701 through 2719 (Act No. 587 of 1990), as amended by Act No. 193 of 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), Amended LR 40:

§1205. Definitions [formerly 49:8.0020]

Act—Tanning Facility Regulation Act unless the text clearly indicates a different meaning. All definitions and interpretations of terms given in the Act shall be applicable also to such terms when used in these regulations.

Authorized Agent—an employee of the department designated by the state health officer to enforce the provisions of the Act. The responsibility for implementing the provisions of the Act has been assigned to the Food and Drug Unit of the Office of Public Health of the Department of Health and Hospitals.

Consumer—any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of these regulations.

Department—the Department of Health and Hospitals.

Formal Training—a course of instruction approved by the department and presented under formal classroom conditions by a qualified expert possessing adequate knowledge and experience to offer a curriculum, associated training, and certification testing pertaining to and associated with the correct use of tanning equipment.

Individual—any human being.

Operator—any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Persons—any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

Phototherapy Device—a piece of equipment that emits ultraviolet radiation and is used by a licensed health care professional in the treatment of disease.

Registrant—any person who has filed for and received a certificate of registration-permit issued by the department as required by provisions of these regulations.

Secretary—the secretary of the Department of Health and Hospitals.

State Health Officer—the employee of the department who is the chief health care official of the state as provided for in R.S. 40:2.

Tanning Equipment—ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

Tanning Facility—any location, place, area, structure, or business which provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same persons, but at separate locations, shall constitute separate tanning facilities.

Ultraviolet Radiation—electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit. LR 18: 274 (March 1992), amended LR 19:209 (February 1993), Amended LR 40:

§1205. Exemptions

[formerly 49:8.0030]

A. As provided in R.S. 40:2704, any person is exempt from the provisions of these regulations to the extent that such person:

1. uses equipment which emits ultraviolet radiation incidental to its normal operation;
2. does not use the equipment described in Paragraph 1 of this Subsection to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of tanning or other treatment.

B. Any physician licensed by the Louisiana State Board of Medical Examiners is exempt from the provisions of these regulations and is authorized to use a phototherapy device or other medical diagnostic and the therapeutic equipment which emits ultraviolet radiation.

C. Any individual is exempt from the provisions of these regulations to the extent that such individual owns tanning equipment exclusively for non-commercial use.

D. Tanning equipment while in transit or storage incidental thereto is exempt from the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit. LR 18: 274 (March 1992), amended LR 19:209 (February 1993).

§1207. Certificate of Registration - Permit

[formerly 49:8.0040]

A. Each person owning or operating a tanning facility or facilities within the State of Louisiana shall apply for a certificate of registration - permit for each such facility or facilities no later than April 1, 1992.

B. The application for a certificate of registration - permit required above shall be made on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

C. The application for certificate of registration - permit shall include the information required in R.S. 40:2705 (D).

D. A fee of \$150 shall accompany each initial application for a certificate of registration - permit. Each tanning facility operating within the state for which an application for registration - permit and fee has been received by the department shall be issued a temporary registration- permit until such time that an inspection of the tanning

facility and equipment can be made and it is determined that a permanent registration- permit to operate can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993), Amended LR 40:

§1207. Issuance of Certificate of Registration - Permit
[formerly 49:8.0050]

A. A certificate of registration - permit shall be issued upon receipt of an application provided that no certificate of registration - permit be issued until inspection has been made of the tanning facility and it has been found to be operating in compliance with the provisions of the Act and these regulations.

B. The certificate of registration - permit shall be displayed in an open public area of the tanning facility.

C. An annual certificate of registration - permit shall be issued upon receipt of an application of forms provided by the department for this purpose and required renewal fees.

D. A certificate of registration - permit shall be issued only to the person or persons responsible for the operations of the tanning facility and shall not be transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1209. Renewal of Registration - Permit
[formerly 49:8.0060]

A. The registrant shall file applications for renewal of certificate of registration - permit on forms provided by the department. The application shall be sent to the mailing address of the principal registrant listed on the last application for registration - permit submitted.

B. An annual renewal fee of \$110 shall accompany each annual renewal. Make check or money order payable to the Food and Drug Unit/Department of Health & Hospitals.

C. Provided that a registrant files an application with the department in proper form not less than thirty days prior to the expiration date stated on the certificate of registration - permit, the certificate shall not expire pending final action on the application by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993), Amended LR 40:

§1211. Report of Changes
[formerly 49:8.0070]

A. The registrant shall notify the department in writing before making any change which would render the information contained in the application for certificate of registration - permit inaccurate. Notification of changes shall include information required by R.S. 40:2705(D)1, 2, 3, 4, 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1213. Transfer of Certificate of Registration - Permit
[formerly 49:8.0080]

A. No certificate of registration - permit may be transferred from one person to another or from one tanning facility to another tanning facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1215. Prohibited Acts; Advertisement
[formerly 49:8.0090]

A. A tanning facility may not claim or distribute promotional materials that claim use of a tanning device is safe or free from risk.

B. No person shall state or imply that any activity under such certificate of registration - permit has been approved by the department.

C. No person or tanning facility may claim health benefits from the use of a tanning device unless such claims have been approved in advance by the state health officer.

D. No tanning facility may allow any person under eighteen years of age to use any tanning equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

**§1217. Denial, Suspension, or Revocation of a Certificate of Registration - Permit
[formerly 49:8.0100]**

A. The department may deny, suspend, or revoke a certificate of registration - permit applied for or issued pursuant to these regulations:

1. for any material false statement in the application for certificate of registration - permit or in any statement of fact required by provisions of this Chapter;
2. because of conditions revealed by the application or any report, record, inspection or other means which would warrant the department to refuse to grant a certificate of registration - permit on an original application;
3. for operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety;
4. for failure to allow authorized representatives of the department to enter the tanning facility during normal business hours for the purpose of determining compliance with the provisions of these regulations, the Tanning Facility Regulation Act, conditions of the certificate of registration - permit, or an order of the department;
5. for violation of or failure to observe any of the terms and conditions of the certificate of registration, the provisions of this Chapter, or an order of the department;
6. failure to pay a certificate of registration - permit fee or annual renewal fee;
7. the registrant obtained or attempted to obtain a certificate of registration - permit by fraud or deception;
8. the operation of a tanning facility without a valid certificate of registration - permit or the continued operation after a certificate has been revoked or suspended, shall constitute a violation of these regulations. Each day of noncompliance shall constitute a separate violation.

B. Except in cases of willful disregard for the public health and safety, prior to the institution of proceedings for suspension or revocation of a certificate of registrant - permit, the agency shall:

1. call to the attention of the registrant in writing, the facts or conduct which may warrant such actions;
2. provide reasonable and sufficient opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.

C. The department may deny a certificate of registration - permit or suspend or revoke a certificate of registration - permit after issuance only in accordance with the Administrative Procedure Act.

D. The department may terminate a certificate of registration - permit upon receipt of a written request for termination from the registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

**§1219. Compliance with Federal and State Law
[formerly 49:8.0110]**

A. Tanning devices used by a tanning facility shall comply with 21 Code of Federal Regulations (CFR) Part 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.

B. Except as otherwise ordered or approved by the department, each tanning facility shall be constructed, operated, and maintained in accordance with the requirements of R.S. 40:2710 through 40:2714.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1221. Warning Signs Required
[formerly 49:8.0120]**

A. The registrant shall conspicuously post the warning sign described in Subsection B of this Section within three feet of each tanning station and in such a manner that the sign is clearly visible, not obstructed by any barrier, equipment or other object, and can be easily viewed by the consumer before energizing the tanning equipment.

B. The sign required by this Section shall be printed in upper and lower case letters which are at least one-half inch and one-quarter inch in height, respectively, and shall contain the following warnings:

Danger - Ultraviolet Radiation

- Follow instructions.
- Avoid overexposure. As with natural sunlight, repeated exposure to ultraviolet radiation can cause chronic sun damage characterized by premature aging of the skin, wrinkling, dryness, fragility and bruising of the skin, and skin cancer.
- Wear protective eyewear.

**Failure to Use Protective Eyewear May
Result in Severe Burns or Permanent
Injury to the Eyes.**

- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation.

- Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe that you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

**If You Do Not Tan in the Sun, You are Unlikely
to Tan from the Use of Ultraviolet Radiation
of Tanning Equipment.**

C. Each registrant shall place, at the entrance of the tanning facility, signage that states the following: “LOUISIANA LAW PROHIBITS PERSONS UNDER 18 YEARS OF AGE FROM USING ANY TANNING FACILITY EQUIPMENT THAT EMITS ULTRAVIOLET LIGHT FOR THE PURPOSE OF SKIN TANNING”; this sign shall be of dimensions of at least eight inches by ten inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993), Amended LR 40:

**§1223. Tanning Equipment Standards
[formerly 49:8.0130]**

A. Equipment used in tanning facilities shall conform to the standards set forth in R.S. 40:2711(A) through (D) as well as the following.

1. Tanning equipment booths or rooms shall be of rigid construction.
2. Wall surfaces within booths or rooms shall be easily cleanable and shall be kept clean at all times.
3. Ceilings, where provided, shall be easily cleanable and shall be kept clean.
4. Floors within tanning equipment booths or rooms shall be constructed of readily cleanable materials including, but not limited to, vinyl tile, sheet vinyl, quarry tile, glazed brick, short pile carpet or rugs, or other suitable material.
5. Floors shall be kept clean and in good repair at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1225. Requirements for Stand-Up Booths
[formerly 49:8.0140]**

A. Tanning booths designed for stand-up use shall also comply with the requirements of R.S. 40:2712.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1227. Potable Water Supply; Sanitary Facilities; Sewage and Waste Disposal
[formerly 49:8.0150]**

A. Each tanning facility shall provide an ample supply of potable hot and cold water, under pressure for drinking, cleansing, washing or other purposes. Such water supply shall not be cross connected to any other supply.

B. Each tanning facility shall provide toilet and hand washing facilities according to requirements of Part XIV, Table 411 of the State Sanitary Code and each toilet shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing. Toilet rooms shall be well lighted and ventilated.

C. Sewage disposal shall be made in a sewage system or by other means approved by the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1229. Rubbish and Trash Disposal
[formerly 49:8.0160]**

A. Rubbish, trash, and other debris including used or burned out tanning lamps shall be so conveyed, stored and disposed of as to minimize the development of odor and to prevent harborage of vermin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1231. Operational Requirements
[formerly 49:8.0170]**

A. Each tanning facility must be operated under the requirements set forth by R.S. 40:2713.

B. Each tanning facility shall establish and adhere to effective procedures for cleaning and sanitizing each tanning bed or booth as well as protective eyewear before and after use of such equipment by each consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

§1233. Information Provided to Consumers, Warnings
[formerly 49:8.0180]

A. Each tanning facility operator shall provide each consumer, prior to initial exposure, a written warning statement as required by R.S. 40:2714(A). Such warning statements shall be signed by each consumer and maintained permanently on file at the tanning facility. A copy of the signed warning statement shall be given to each consumer. Copies of such warning statement shall be available for review during inspections by duly authorized agents of the state health officer. The written warning statement shall warn that:

1. failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;
2. overexposure to ultraviolet light causes burns;
3. repeated exposure may result in premature aging of the skin and skin cancer;
4. abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:
 - a. foods;
 - b. cosmetic;
 - c. medications, including tranquilizers, diuretics, antibiotic, high blood pressure medicines, and oral contraceptives;
5. any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device;
6. a person should not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

B. Consumer warning statements acknowledged by each consumer by signature prior to initial exposure shall be maintained on file within the tanning facility and shall be made readily available for review by authorized agents of the Department of Health and Hospitals, Office of Public Health.

C. The registrant shall maintain for six years a record of each consumer's total number of tanning visits, dates, and duration of tanning exposures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18:274 (March 1992), amended LR 19:210 (February 1993).

§1235. Reports to the Department
[formerly 49:8.0190]

A. The registrant shall submit to the department a written report of actual or alleged injury from the use of registered tanning equipment within five working days after occurrence or notice thereof as required by R.S. 40:2714(D). The report shall include:

1. the name of the affected individual;
2. the name, location, and number of the certificate of registration - permit for the tanning facility and identification of the specific tanning equipment involved, including the name, model number, date of manufacture and type of lamp(s);
3. the nature of the actual or alleged injury, as well as the complete name, address and telephone number of any doctor visited for medical attention;
5. any other information relevant to the actual or alleged injury, including the date and duration of exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1239. Replacement of Ultraviolet Lamps, Bulbs, Filters
[formerly 49:8.0210]

A. Defective and burned out lamps, bulbs, or filters shall be replaced in accordance with R.S. 40:2714(F) and (G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1241. Tanning Equipment Operator Training
[formerly 49:8.0220]

A. The registrant shall certify that all tanning equipment operators are adequately trained in at least the following:

1. the requirements of these regulations;
2. procedures for correct operation of the tanning facility and tanning equipment;

3. recognition of injury or overexposure to ultraviolet radiation;
4. the tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment;
5. the determination of skin type of consumers and appropriate determination of duration of exposure to registered tanning equipment;
6. emergency procedure to be followed in case of injury.

B. The registrant shall limit the operation of tanning equipment to persons who have successfully completed formal training courses which cover the provisions of Paragraph A.1 of this Subsection, and have been approved by the department.

C. The registrant shall maintain a record of operator training required in Paragraph A.2 of this Subsection for inspection by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), Amended LR 40:

§1243. Inspections by Department
[formerly 49:8.0230]

A. In order to effect the enforcement of these regulations, officers or employees duly authorized by the department or the State Health Officer, after making reasonable request, may enter any registered or unregistered tanning facility and inspect all tanning booths, rooms, tanning equipment, tanning devices, consumer records, and any other materials used in the tanning facility.

B. No tanning facility registrant, owner, or operator shall refuse this reasonable inspection request, without being subjected to provisions of §1217.A.4 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1245. Penalties; Criminal Penalty; Injunction
[formerly 49:8.0240]

A. Criminal penalties or injunctions may be imposed upon a tanning facility operator as provided by 40:2716 and 40:2717 of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

Family Impact Statement

1. The effect on the stability of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to remain stable.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The effect on the functioning of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to function better than it may should a family member become ill if such Rule did not exist.

4. The effect on the family earnings and family budget. It is expected that family members would remain more healthy with the adoption of this rule than if such Rule did not exist; therefore, the family earnings and budget may be protected from additional costs should a family member become ill if such Rule did not exist.

5. The effect on the behavior and personal responsibility of children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. The family or local governments have no function to perform under this Rule; therefore, the family or local government's ability to perform the function under this Rule is a non-issue.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental, and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of the proposed rulemaking has been considered. There is no anticipated impact on the staffing level requirements or qualifications, cost, or ability of providers of services for individuals with developmental disabilities to provide such services.

Public Hearing

DHH-OPH will conduct a public hearing on October 26, 2015, beginning at 9:30 a.m. in room 173 of the Bienville Building located at 628 N. 4th Street, Baton Rouge, LA 70802. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Public Comments

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Monday, October 26, 2015, at close of business or 4:30 pm, and should be addressed to Brian R. Warren, Food and Drug/Milk and Dairy Unit, Office of Public Health, Mail Bin # 10, Box # 14, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7672. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 166, Baton Rouge, LA 70802.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tanning

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The first proposed rule change in Section 1201 of Part I deletes Subsection D, a reference to the "Red Book." The department is in the process of amending and recodifying these older regulations into the Louisiana Administrative Code under Title 49. The second proposed rule change in Section 1203 adds language reflecting changes made in Act 193 of 2014. The third proposed rule change in Section 1205 deletes the definition of "tutor," which is no longer relevant to the enforcement of this code. The fourth and fifth proposed rule changes in Sections 1207 and 1209 relate to altering the specified fee amounts, which were changed in Act 125 of 2000, and removing extraneous language. The sixth proposed rule change to Section 1215 inserts language banning minors from using UV tanning equipment in registered facilities in Louisiana. The seventh proposed rule change to Section 1221 inserts language regarding the new signage mandated by Act 193 of 2014. The eighth and ninth proposed rule changes to Section 1227 correct code references and grammatical errors. The tenth proposed rule change to Section 1229 replaces "light bulbs" with "tanning lamps." The eleventh proposed rule change to Section 1237 deletes Section 1237 in its entirety. The twelfth proposed rule change to Section 1241 removes the "effective date" language as it pertains to operating training requirements—this is also done to comply with Act 193 of 2014. The final proposed change to Section 1247 is to delete Section 1247 in its entirety, as the information is obsolete and other means of contacting the department are readily available.

It is not anticipated that the proposed action will have any significant impact on local governmental units as all paperwork related to tanning facility registrations is administered and processed by the DHH Food and Drug/Milk and Dairy Unit of the Office of Public Health.

The proposed changes will result in an estimated state cost of \$1.148 to publish the notice of intent and the final rule in the Louisiana Register. This is a one-time cost that is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has no effect on fee collections.

It is not anticipated that the proposed action will have any significant impact on local governmental units as there are no changes to fees as part of these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be costs to those registered entities that were previously allowing minors to tan in the state of Louisiana: it is impossible to estimate the economic costs of these changes to these firms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is possible that these changes will cause a decrease in employment as regulated facilities cannot offer services to minor clients resulting in a potential net decrease in business. It is impossible to estimate this impact given the information available.

Kathy Kliebert
Secretary
1008#094

Evan J. Brasseaux
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person(s) Preparing Statement: Brian R. Warren **Department:** Department of Health and Hospitals/
Office of Public Health

Telephone: 225-342-7514 **Rule Title:** Tanning

Return Address: 628 N 4th Street **Effective Date:** December 20, 2015
Baton Rouge, LA 70821

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule recodifies and amends Louisiana Administrative Code Title 49, Part I, Chapter 12 – Tanning Facility Regulations, which was originally promulgated in the March 20, 1992 edition of the Louisiana Register in accordance with Act 587 of 1990. Amendments to the newly recodified Sections 1201-1247 of Chapter 12 reflect administrative changes as well as requirements of Act 193 of 2014 that enforced a new ban on minors' use of tanning equipment.

The following are amendments to each section: (1) Section 1201 deletes Subsection D, a reference to the "Red Book" that is obsolete; (2) Section 1203 adds language reflecting changes made in Act 193 of 2014; (3) Section 1205 deletes the definition of "tutor," which is no longer relevant to the enforcement of this code; (4) Sections 1207 and 1209 changes the specified fee amounts, which were changed by Act 125 of 2000, and removes extraneous language; (5) Section 1215 inserts language banning minors from using UV tanning equipment in registered facilities in Louisiana; (6) Section 1221 inserts language regarding the new signage mandated by Act 193 of 2014; (7) Section 1227 corrects code references and grammatical errors; (8) Section 1229 replaces "light bulbs" with "tanning lamps"; (9) deletes Section 1237 in its entirety; (10) Section 1241 removes the "effective date" language as it pertains to operating training requirements to comply with Act 193 of 2014; and (11) deletes Section 1247 in its entirety, as the information is obsolete and other means of contacting the department are readily available.

The proposed changes will result in an estimated state cost of \$1,148 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)


The proposed rule is not anticipated to have any impact on State revenue collections as it does not change existing licensing/inspection fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Act 193 of 2014 that banned minors from tanning has been effective since August 1, 2014. Any decrease in revenue to registered tanning entities was experienced in 2014. Therefore, the proposed rule is not anticipated to have any impact on registered entities that were previously allowing minors to tan in the state of Louisiana in future fiscal years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Act 193 of 2014 that banned minors from tanning has been effective since August 1, 2014. Any potential decrease in employment at registered facilities as a result of decrease in business was experienced in 2014. Therefore, the proposed rule is not anticipated to have any impact on registered tanning entities in future fiscal years.



J. F. Lane, Assistant Secretary
DHH/Office of Public Health

9/10/15

Date of Signature



Evan Brasseaux, Staff Director
Legislative Fiscal Officer or Designee

9/10/15

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).**

The first proposed rule change in Section 1201 of Part I deletes Subsection D, a reference to the "Red Book." The department is in the process of amending and recodifying these older regulations into the Louisiana Administrative Code under Title 49. The second proposed rule change in Section 1203 adds language reflecting changes made in Act 193 of 2014. The third proposed rule change in Section 1205 deletes the definition of "tutor," which is no longer relevant to the enforcement of this code. The fourth and fifth proposed rule changes in Sections 1207 and 1209 relate to altering the specified fee amounts, which were changed in Act 125 of 2000, and removing extraneous language. The sixth proposed rule change to Section 1215 inserts language banning minors from using UV tanning equipment in registered facilities in Louisiana. The seventh proposed rule change to Section 1221 inserts language regarding the new signage mandated by Act 193 of 2014. The eighth and ninth proposed rule changes to Section 1227 correct code references and grammatical errors. The tenth proposed rule change to Section 1229 replaces "light bulbs" with "tanning lamps." The eleventh proposed rule change to Section 1237 deletes Section 1237 in its entirety. The twelfth proposed rule change to Section 1241 removes the "effective date" language as it pertains to operating training requirements—this is also done to comply with Act 193 of 2014. The final proposed change to Section 1247 is to delete Section 1247 in its entirety, as the information is obsolete and other means of contacting the department are readily available.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulations.** Passage of Act 193 of 2014 banning minors from using UV tanning equipment and bearing several other related changes to existing statutory requirements prompted these changes.

C. Compliance with Act 11 of the 1986 First Extraordinary Session:

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.**

The proposed changes will result in an estimated state cost of \$1,148 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is included in the agency's budget.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?**

(N/A)

(a) _____ Yes. If yes, attach documentation.

(b) No. If no, provide justification as to why this rule change should be published at this time:

The rule change is mandated by legislative action.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

Costs	FY 2015-2016	FY 2016-2017	FY 2017 - 2018
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	\$1,148	0	0
Equipment	0	0	0
TOTAL	\$1,148	0	0
Major Repair/Construction	0	0	0
POSITIONS	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.
N/A

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 2015-2016	FY 2016-2017	FY 2017 - 2018
Agency Gen. Fund	\$1,148	0	0
Agency Self Gen.	0	0	0
Dedicated	0	0	0
Federal	0	0	0
Other (Specify)	0	0	0
Total	\$1,148	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?
Yes.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.
No effects are anticipated on the revenue of local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.
N/A

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS.

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/ DECREASE	FY 2015-2016	FY 2016-2017	FY 2017 - 2018
State General Fund	0	0	0
Agency Self-Gen.	0	0	0
Restricted*	0	0	0
Federal Funds	0	0	0
Local Funds	0	0	0
TOTAL	0	0	0

*Specify particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

It is anticipated that this proposed rule will not impact to revenue collections.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS.

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There will be costs to those registered entities that were previously allowing minors to tan in the state of Louisiana; it is impossible to estimate the economic costs of these changes to these firms.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to their groups.

See above.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is possible that these changes will cause a decrease in employment as regulated facilities cannot offer services to minor clients resulting in a potential net decrease in business. It is impossible to estimate this impact given the information available.

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Tanning (LAC 49:1.1201-1247)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to recodify the Chapter 12 regulations originally promulgated in the March 20, 1992 edition of the Louisiana Register in accordance with Act 587 of 1990 and to amend the newly recodified Sections 1201-1247 of Part I of Title 49 of the Louisiana Administrative Code to reflect administrative changes and to comply with the requirements of Act 193 of 2014. These changes are required to enforce the new ban on minors' use of tanning equipment enacted during the recent Regular Session of the Louisiana Legislature.

Title 49 FOOD, DRUG AND COSMETIC REGULATIONS Part I. General Regulations

Chapter 12. Tanning Facility Regulations

§1201. Purpose and Scope [formerly 49:8.0000]

A. These regulations provide for the registration, certification and regulation of facilities and equipment which employ ultraviolet and other lamps for the purpose of tanning the skin of the living human body through the application of ultraviolet radiation.

B. The current statutory provisions in R.S. 40:2701 through 2719 as enacted by Act No. 587 of 1990 indicates that the owner or proprietor of each tanning parlor facility must apply for a certificate of registration as well as a separate permit from the department of Health and Hospitals. In order to implement Act No. 587 of 1990 efficiently, and to accomplish the desired regulatory results in the best interest of the public health, the department will require a single application to register and obtain a permit for each tanning parlor facility in the state. Upon completion of processing, which includes inspection of each such facility by a department employee, only a single certificate of registration and permit will be issued. The combined instrument will expire at midnight on the date specified on the face of the document, and it must be renewed annually, as further specified in these regulations.

C. Nothing in these regulations shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or therapy other than skin tanning, provided such treatment or therapy is supervised by a licensed practitioner of the healing arts in the lawful practice of their profession, in accordance with the requirements of their professional licensing board to prescribe and supervise such treatment.

~~D. These regulations will become part of the Food, Drug and Cosmetic Laws and Regulations, otherwise known as the Red Book.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), Amended LR 40:

§1203. Authority [formerly 49:8.0010]

A. These regulations are promulgated under authority of the Tanning Facility Regulation Act comprising R.S. 40:2701 through 2719 (Act No. 587 of 1990), as amended by Act No. 193 of 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), Amended LR 40:

§1205. Definitions [formerly 49:8.0020]

Act—Tanning Facility Regulation Act unless the text clearly indicates a different meaning. All definitions and interpretations of terms given in the Act shall be applicable also to such terms when used in these regulations.

Authorized Agent—an employee of the department designated by the state health officer to enforce the provisions of the Act. The responsibility for implementing the provisions of the Act has been assigned to the Food and Drug Unit of the Office of Public Health of the Department of Health and Hospitals.

Consumer—any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of these regulations.

Department—the Department of Health and Hospitals.

Formal Training—a course of instruction approved by the department and presented under formal classroom conditions by a qualified expert possessing adequate knowledge and experience to offer a curriculum, associated training, and certification testing pertaining to and associated with the correct use of tanning equipment.

Individual—any human being.

Operator—any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Persons—any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

Phototherapy Device—a piece of equipment that emits ultraviolet radiation and is used by a licensed health care professional in the treatment of disease.

Registrant—any person who has filed for and received a certificate of registration-permit issued by the department as required by provisions of these regulations.

Secretary—the secretary of the Department of Health and Hospitals.

State Health Officer—the employee of the department who is the chief health care official of the state as provided for in R.S. 40:2.

Tanning Equipment—ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

Tanning Facility—any location, place, area, structure, or business which provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same persons, but at separate locations, shall constitute separate tanning facilities.

~~*Tutor*—a person appointed to have the care of the person of a minor and the administration of his or her estate.~~

Ultraviolet Radiation—electromagnetic radiation with wavelengths in air between 200 nanometers and 400 nanometers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993), [Amended LR 40: -](#)

§1205. Exemptions

[formerly 49:8.0030]

A. As provided in R.S. 40:2704, any person is exempt from the provisions of these regulations to the extent that such person:

1. uses equipment which emits ultraviolet radiation incidental to its normal operation;

2. does not use the equipment described in Paragraph 1 of this Subsection to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of tanning or other treatment.

B. Any physician licensed by the Louisiana State Board of Medical Examiners is exempt from the provisions of these regulations and is authorized to use a phototherapy device or other medical diagnostic and the therapeutic equipment which emits ultraviolet radiation.

C. Any individual is exempt from the provisions of these regulations to the extent that such individual owns tanning equipment exclusively for non-commercial use.

D. Tanning equipment while in transit or storage incidental thereto is exempt from the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993).

§1207. Certificate of Registration - Permit

[formerly 49:8.0040]

A. Each person owning or operating a tanning facility or facilities within the State of Louisiana shall apply for a certificate of registration - permit for each such facility or facilities no later than April 1, 1992.

B. The application for a certificate of registration - permit required above shall be made on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

C. The application for certificate of registration - permit shall include the information required in R.S. 40:2705 (D).

D. A fee of ~~\$50~~150 shall accompany each initial application for a certificate of registration - permit. ~~Make check or money orders payable to the Food and Drug Unit/Department of Health and Hospitals.~~

E. Each tanning facility operating within the state for which an application for registration - permit and fee has been received by the department shall be issued a temporary registration- permit until such time that an inspection of the tanning facility and equipment can be made and it is determined that a permanent registration- permit to operate can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993), Amended LR 40:

§1207. Issuance of Certificate of Registration - Permit
[formerly 49:8.0050]

A. A certificate of registration - permit shall be issued upon receipt of an application provided that no certificate of registration - permit be issued until inspection has been made of the tanning facility and it has been found to be operating in compliance with the provisions of the Act and these regulations.

B. The certificate of registration - permit shall be displayed in an open public area of the tanning facility.

C. An annual certificate of registration - permit shall be issued upon receipt of an application of forms provided by the department for this purpose and required renewal fees.

D. A certificate of registration - permit shall be issued only to the person or persons responsible for the operations of the tanning facility and shall not be transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1209. Renewal of Registration - Permit
[formerly 49:8.0060]

A. The registrant shall file applications for renewal of certificate of registration - permit on forms provided by the department. The application shall be sent to the mailing address of the principal registrant listed on the last application for registration - permit submitted.

B. An annual renewal fee of ~~\$25~~110 shall accompany each annual renewal. Make check or money order payable to the Food and Drug Unit/Department of Health & Hospitals.

C. Provided that a registrant files an application with the department in proper form not less than thirty days prior to the expiration date stated on the certificate of registration - permit, the certificate shall not expire pending final action on the application by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:209 (February 1993), Amended LR 40:

§1211. Report of Changes
[formerly 49:8.0070]

A. The registrant shall notify the department in writing before making any change which would render the information contained in the application for certificate of registration - permit inaccurate. Notification of changes shall include information required by R.S. 40:2705(D)1, 2, 3, 4, 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1213. Transfer of Certificate of Registration - Permit
[formerly 49:8.0080]

A. No certificate of registration - permit may be transferred from one person to another or from one tanning facility to another tanning facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1215. Prohibited Acts; Advertisement
[formerly 49:8.0090]

A. A tanning facility may not claim or distribute promotional materials that claim use of a tanning device is safe or free from risk.

B. No person shall state or imply that any activity under such certificate of registration - permit has been approved by the department.

C. No person or tanning facility may claim health benefits from the use of a tanning device unless such claims have been approved in advance by the state health officer.

D. No tanning facility may allow any person under eighteen years of age to use any tanning equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

§1217. Denial, Suspension, or Revocation of a Certificate of Registration - Permit
[formerly 49:8.0100]

A. The department may deny, suspend, or revoke a certificate of registration - permit applied for or issued pursuant to these regulations:

1. for any material false statement in the application for certificate of registration - permit or in any statement of fact required by provisions of this Chapter;
2. because of conditions revealed by the application or any report, record, inspection or other means which would warrant the department to refuse to grant a certificate of registration - permit on an original application;
3. for operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety;
4. for failure to allow authorized representatives of the department to enter the tanning facility during normal business hours for the purpose of determining compliance with the provisions of these regulations, the Tanning Facility Regulation Act, conditions of the certificate of registration - permit, or an order of the department;
5. for violation of or failure to observe any of the terms and conditions of the certificate of registration, the provisions of this Chapter, or an order of the department;
6. failure to pay a certificate of registration - permit fee or annual renewal fee;
7. the registrant obtained or attempted to obtain a certificate of registration - permit by fraud or deception;
8. the operation of a tanning facility without a valid certificate of registration - permit or the continued operation after a certificate has been revoked or suspended, shall constitute a violation of these regulations. Each day of noncompliance shall constitute a separate violation.

B. Except in cases of willful disregard for the public health and safety, prior to the institution of proceedings for suspension or revocation of a certificate of registrant - permit, the agency shall:

1. call to the attention of the registrant in writing, the facts or conduct which may warrant such actions;
2. provide reasonable and sufficient opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.

C. The department may deny a certificate of registration - permit or suspend or revoke a certificate of registration - permit after issuance only in accordance with the Administrative Procedure Act.

D. The department may terminate a certificate of registration - permit upon receipt of a written request for termination from the registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

§1219. Compliance with Federal and State Law
[formerly 49:8.0110]

A. Tanning devices used by a tanning facility shall comply with 21 Code of Federal Regulations (CFR) Part 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.

B. Except as otherwise ordered or approved by the department, each tanning facility shall be constructed, operated, and maintained in accordance with the requirements of R.S. 40:2710 through 40:2714.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1221. Warning Signs Required
[formerly 49:8.0120]

A. The registrant shall conspicuously post the warning sign described in Subsection B of this Section within three feet of each tanning station and in such a manner that the sign is clearly visible, not obstructed by any barrier, equipment or other object, and can be easily viewed by the consumer before energizing the tanning equipment.

B. The sign required by this Section shall be printed in upper and lower case letters which are at least one-half inch and one-quarter inch in height, respectively, and shall contain the following warnings:

Danger - Ultraviolet Radiation

- Follow instructions.

- Avoid overexposure. As with natural sunlight, repeated exposure to ultraviolet radiation can cause chronic sun damage characterized by premature aging of the skin, wrinkling, dryness, fragility and bruising of the skin, and skin cancer.
- Wear protective eyewear.

**Failure to Use Protective Eyewear May
Result in Severe Burns or Permanent
Injury to the Eyes.**

- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation.
- Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe that you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

**If You Do Not Tan in the Sun, You are Unlikely
to Tan from the Use of Ultraviolet Radiation
of Tanning Equipment.**

C. Each registrant shall place, at the entrance of the tanning facility, signage that states the following: "LOUISIANA LAW PROHIBITS PERSONS UNDER 18 YEARS OF AGE FROM USING ANY TANNING FACILITY EQUIPMENT THAT EMITS ULTRAVIOLET LIGHT FOR THE PURPOSE OF SKIN TANNING"; this sign shall be of dimensions of at least eight inches by ten inches.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993), Amended LR 40:-

**§1223. Tanning Equipment Standards
[formerly 49:8.0130]**

A. Equipment used in tanning facilities shall conform to the standards set forth in R.S. 40:2711(A) through (D) as well as the following.

1. Tanning equipment booths or rooms shall be of rigid construction.
2. Wall surfaces within booths or rooms shall be easily cleanable and shall be kept clean at all times.
3. Ceilings, where provided, shall be easily cleanable and shall be kept clean.
4. Floors within tanning equipment booths or rooms shall be constructed of readily cleanable materials including, but not limited to, vinyl tile, sheet vinyl, quarry tile, glazed brick, short pile carpet or rugs, or other suitable material.
5. Floors shall be kept clean and in good repair at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1225. Requirements for Stand-Up Booths
[formerly 49:8.0140]**

A. Tanning booths designed for stand-up use shall also comply with the requirements of R.S. 40:2712.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1227. Potable Water Supply; Sanitary Facilities; Sewage and Waste Disposal
[formerly 49:8.0150]**

A. Each tanning facility shall provide an ample supply of potable hot and cold water, under pressure for drinking, cleansing, washing or other purposes. Such water supply shall not be cross connected to any other supply.

B. Each tanning facility shall provide toilet and hand washing facilities according to requirements of ~~Chapter XIV, Table 14:098~~ Part XIV, Table 411 of the State Sanitary Code and each toilet shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing. Toilet rooms shall be well lighted and ventilated.

C. Sewage disposal shall be made in a sewerage system or by other means approved by the State Health Officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

**§1229. Rubbish and Trash Disposal
[formerly 49:8.0160]**

A. Rubbish, trash, and other debris including used or burned out ~~light bulbs~~ tanning lamps shall be so conveyed, stored and disposed of as to minimize the development of odor and to prevent harborage of vermin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1231. Operational Requirements

[formerly 49:8.0170]

A. Each tanning facility must be operated under the requirements set forth by R.S. 40:2713.

B. Each tanning facility shall establish and adhere to effective procedures for cleaning and sanitizing each tanning bed or booth as well as protective eyewear before and after use of such equipment by each consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992), amended LR 19:210 (February 1993).

§1233. Information Provided to Consumers, Warnings

[formerly 49:8.0180]

A. Each tanning facility operator shall provide each consumer, prior to initial exposure, a written warning statement as required by R.S. 40:2714(A). Such warning statements shall be signed by each consumer and maintained permanently on file at the tanning facility. A copy of the signed warning statement shall be given to each consumer. Copies of such warning statement shall be available for review during inspections by duly authorized agents of the state health officer. The written warning statement shall warn that:

1. failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;

2. overexposure to ultraviolet light causes burns;

3. repeated exposure may result in premature aging of the skin and skin cancer;

4. abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:

a. foods;

b. cosmetic;

c. medications, including tranquilizers, diuretics, antibiotic, high blood pressure medicines, and oral contraceptives;

5. any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device;

6. a person should not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

B. Consumer warning statements acknowledged by each consumer by signature prior to initial exposure shall be maintained on file within the tanning facility and shall be made readily available for review by authorized agents of the Department of Health and Hospitals, Office of Public Health.

C. The registrant shall maintain for six years a record of each consumer's total number of tanning visits, dates, and duration of tanning exposures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18:274 (March 1992), amended LR 19:210 (February 1993).

§1235. Reports to the Department

[formerly 49:8.0190]

A. The registrant shall submit to the department a written report of actual or alleged injury from the use of registered tanning equipment within five working days after occurrence or notice thereof as required by R.S. 40:2714(D). The report shall include:

1. the name of the affected individual;

2. the name, location, and number of the certificate of registration - permit for the tanning facility and identification of the specific tanning equipment involved, including the name, model number, date of manufacture and type of lamp(s);

3. the nature of the actual or alleged injury, as well as the complete name, address and telephone number of any doctor visited for medical attention;

5. any other information relevant to the actual or alleged injury, including the date and duration of exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).

§1237. Provisions for Minors

[formerly 49:8.0200]

~~A. Before any person between 14 and 18 years of age uses a tanning device, the tanning facility shall secure a statement signed at the tanning facility by the person's parent or tutor stating that the parent or tutor has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides. A person 14 years of age shall be accompanied by a parent or tutor when using a tanning device.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

§1239. Replacement of Ultraviolet Lamps, Bulbs, Filters
[formerly 49:8.0210]

A. Defective and burned out lamps, bulbs, or filters shall be replaced in accordance with R.S. 40:2714(F) and (G).

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

§1241. Tanning Equipment Operator Training
[formerly 49:8.0220]

A. The registrant shall certify that all tanning equipment operators are adequately trained in at least the following:

1. the requirements of these regulations;
2. procedures for correct operation of the tanning facility and tanning equipment;
3. recognition of injury or overexposure to ultraviolet radiation;
4. the tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment;
5. the determination of skin type of consumers and appropriate determination of duration of exposure to registered tanning equipment;
6. emergency procedure to be followed in case of injury.

B. ~~Effective April 1, 1993, T~~the registrant shall limit the operation of tanning equipment to persons who have successfully completed formal training courses which cover the provisions of Paragraph A.1 of this Subsection, and have been approved by the department.

C. The registrant shall maintain a record of operator training required in Paragraph A.2 of this Subsection for inspection by authorized representatives of the department.

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~ Amended LR 40:

§1243. Inspections by Department
[formerly 49:8.0230]

A. In order to effect the enforcement of these regulations, officers or employees duly authorized by the department or the State Health Officer, after making reasonable request, may enter any registered or unregistered tanning facility and inspect all tanning booths, rooms, tanning equipment, tanning devices, consumer records, and any other materials used in the tanning facility.

B. No tanning facility registrant, owner, or operator shall refuse this reasonable inspection request, without being subjected to provisions of §1217.A.4 of these regulations.

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

§1245. Penalties; Criminal Penalty; Injunction
[formerly 49:8.0240]

A. Criminal penalties or injunctions may be imposed upon a tanning facility operator as provided by 40:2716 and 40:2717 of the Act.

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

§1247. Communications with the Department, Department Address
[formerly 49:8.0250]

~~A. Applications for registration and/or permit, reports, notifications and other communications required by these regulations shall be directed to the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, P.O. Box 60630, New Orleans, LA 70160.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2701-2719.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit, LR 18: 274 (March 1992).~~

Family Impact Statement

1. The effect on the stability of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to remain stable.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The effect on the functioning of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to function better than it may should a family member become ill if such Rule did not exist.

4. The effect on the family earnings and family budget. It is expected that family members would remain more healthy with the adoption of this rule than if such Rule did not exist; therefore, the family earnings and budget may be protected from additional costs should a family member become ill if such Rule did not exist.

5. The effect on the behavior and personal responsibility of children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. The family or local governments have no function to perform under this Rule; therefore, the family or local government's ability to perform the function under this Rule is a non-issue.

Public Hearing

DHH-OPH will conduct a public hearing at undetermined as of this date, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Public Comments

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Monday, August 11, 2014 at COB, 4:30 pm, and should be addressed to Brian R. Warren, Food and Drug/Milk and Dairy Unit, Office of Public Health, Mail Bin # 10, Box # 14, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7672. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 166, Baton Rouge, LA 70802.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tanning

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The first proposed rule change in Section 1201 of Part 1 deletes Subsection D, a reference to the "Red Book." The department is in the process of amending and recodifying these older regulations into the Louisiana Administrative Code under Title 49. The second proposed rule change in Section 1203 adds language reflecting changes made in Act 193 of 2014. The third proposed rule change in Section 1205 deletes the definition of "tutor," which is no longer relevant to the enforcement of this code. The fourth and fifth proposed rule changes in Sections 1207 and 1209 relate to altering the specified fee amounts, which were changed in Act 125 of 2000, and removing extraneous language. The sixth proposed rule change to Section 1215 inserts language banning minors from using UV tanning equipment in registered facilities in Louisiana. The seventh proposed rule change to Section 1221 inserts language regarding the new signage mandated by Act 193 of 2014. The eighth and ninth proposed rule changes to Section 1227 correct code references and grammatical errors. The tenth proposed rule change to Section 1229 replaces "light bulbs" with "tanning lamps." The eleventh proposed rule change to Section 1237 deletes Section 1237 in its entirety. The twelfth proposed rule change to Section 1241 removes the "effective date" language as it pertains to operating training requirements—this is also done to comply with Act 193 of 2014. The final proposed change to Section 1247 is to delete Section 1247 in its entirety, as the information is obsolete and other means of contacting the department are readily available.

It is not anticipated that the proposed action will have any significant impact on local governmental units as all paperwork related to tanning facility registrations is administered and processed by the DHH Food and Drug/Milk and Dairy Unit of the Office of Public Health.

The proposed changes will result in an estimated state cost of \$1,148 to publish the notice of intent and the final rule in the Louisiana Register. This is a one-time cost that is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has no effect on fee collections.

It is not anticipated that the proposed action will have any significant impact on local governmental units as there are no changes to fees as part of these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be costs to those registered entities that were previously allowing minors to tan in the state of Louisiana, it is impossible to estimate the economic costs of these changes to these firms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is possible that these changes will cause a decrease in employment as regulated facilities cannot offer services to minor clients resulting in a potential net decrease in business. It is impossible to estimate this impact given the information available.

J.T. Lane
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1008#094

Evan J. Brasseaux
Staff Director
Legislative Fiscal Office