

105 CMR 123.000: Tanning Facilities Final Regulatory Amendment Presentation

Public Health Council

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I. Introduction

- The purpose of this presentation is to review public comments on the proposed amendments to the tanning regulations, discuss changes in response to these comments, and request approval from the Public Health Council for final promulgation of amendments to the tanning regulations.
- The purpose of 105 CMR 123.000 is to set forth the requirements for obtaining a license to operate and maintain a tanning facility.
- These amendments are proposed as part of the regulatory review process, mandated by Executive Order 562, and to comply with the requirements of Chapter 31 of the Acts of 2016 which prohibit anyone under 18 years of age from using or operating a tanning device.

II. Initial Proposed Amendments

- On April 13, 2016, the Department proposed amendments to implement new statutory requirements, conform with the MA plumbing code standards, and align with FDA federal tanning device regulations. The initial proposed amendments:
 - Banned anyone under the age of 18 from using or operating a tanning device or facility;
 - Revised the text used on warning labels for tanning devices to conform with FDA text;
 - Required the warning statement be provided in a language understood by the customer;
 - Revised hot water temperature requirements to conform with the MA Plumbing Code;
 - Added grounds for local health departments to revoke a local license for tanning facilities that permit underage persons to use or to operate a tanning device or facility.

III. Public Comment

- The Department provided a public comment period from April 22, 2016 to May 27, 2016 and held a public hearing on May 26, 2016.
- The Department received written comments from:
 - Children's Melanoma Prevention Foundation
 - Dermatology Nurses' Association
 - Former and Current Tanning Salon Operators
 - The American Cancer Society, Cancer Action Network
 - The American Suntanning Association

IV. Changes to the Draft Proposal

- Following the presentation, the Department made the following changes which are reflected in this draft for promulgation:
 - Eliminated the proposal that a written risk acknowledgment be provided in a language understood by the customer and instead requires the owner to have the information read to the customer in a manner or language that can be understood by the customer;
 - Clarified the operator requirements to determine tanning session duration for each customer based on a skin type determination and previous tanning exposure, and to not exceed the manufacturer's recommended maximum exposure schedule;
 - Consolidated operator responsibilities and record keeping requirements for clarity;
 - Eliminated the proposal to change warning label text. FDA has proposed amendments to the warning label and the Department will re-evaluate the need to address this wording after the FDA has issued a final rule.

V. Conclusion/Next Steps

- Staff requests that the Public Health Council approve the proposed regulations for promulgation
- Following Public Health Council approval, the Department will file the amended regulation with the Secretary of the Commonwealth for final enactment.