

## **ARTICLE 5. TANNING FACILITIES**

### **Rule 1. Sanitation and Safety**

#### **820 IAC 5-1-1 “Commissioner” defined (Repealed)**

Sec. 1. *(Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)*

#### **820 IAC 5-1-1.5 “Board” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 1.5. As used in this rule, “board” means the Indiana board of cosmetology examiners or its authorized representative. *(State Board of Cosmetology Examiners; 820 IAC 5-1-1.5; filed Sep 17, 1998, 3:55 p.m.: 22 IR 456; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236)*

#### **820 IAC 5-1-2 “Customer” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 2. As used in this rule, “customer” means a person receiving the services of a tanning facility. *(State Board of Cosmetology Examiners; 820 IAC 5-1-2; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-2) to the State Board of Cosmetology Examiners (820 IAC 5-1-2) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-3 “Department” defined (Repealed)**

Sec. 3. *(Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)*

#### **820 IAC 5-1-4 “Inspection” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 4. As used in this rule, “inspection” means an official examination or observation, including, but not limited to, tests, surveys, and monitoring, to determine compliance with orders, requirements, and conditions. *(State Board of Cosmetology Examiners; 820 IAC 5-1-4; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; filed Sep 17, 1998, 3:55 p.m.: 22 IR 456; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-4) to the State Board of Cosmetology Examiners (820 IAC 5-1-4) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-5 “Interference with board agent” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 5. As used in this rule, “interference with board agent” means, but is not limited to, physical obstruction, attack, or threatened attack on a representative of the department while that representative is conducting inspection, licensing, or enforcement activities. *(State Board of Cosmetology Examiners; 820 IAC 5-1-5; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; filed Sep 17, 1998, 3:55 p.m.: 22 IR 456; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-5) to the State Board of Cosmetology Examiners (820 IAC 5-1-5) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-6 “Operator” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 6. (a) As used in this rule, “operator” means an individual eighteen (18) years of age or older, designated by the owner or licensee to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of its sunlamp products. The operator is responsible for running the sunlamp products, exercising control over the kill switches, cleaning the equipment, cleaning the protective eyewear, providing protective eyewear to the users, and giving instructions to the person using the equipment.

(b) The person who is at the tanning facility to use the tanning equipment shall not be the operator.

(c) There must be at least one (1) operator on the premises at all times that the tanning facility is open. However, the tanning facility may have working at the tanning facility an employee who is not an operator. (*State Board of Cosmetology Examiners; 820 IAC 5-1-6; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; filed Sep 17, 1998, 3:55 p.m.: 22 IR 456; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-6) to the State Board of Cosmetology Examiners (820 IAC 5-1-6) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-7 “Person” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 7. As used in this rule, “person” means any individual, partnership, copartnership, firm, company, corporation, association, trust, estate, or any other legal entity, its or their successors or assigns or agents of the aforesaid. (*State Board of Cosmetology Examiners; 820 IAC 5-1-7; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-7) to the State Board of Cosmetology Examiners (820 IAC 5-1-7) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-8 “Protective eyewear” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 8. As used in this rule, “protective eyewear” means any device designed to be worn by users of sunlamp products to reduce the exposure of the eyes to radiation. (*State Board of Cosmetology Examiners; 820 IAC 5-1-8; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-8) to the State Board of Cosmetology Examiners (820 IAC 5-1-8) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-9 “Radiation machine” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 9. As used in this rule, “radiation machine” means any device capable of producing radiation, including ultraviolet radiation used for tanning. (*State Board of Cosmetology Examiners; 820 IAC 5-1-9; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; filed Sep 17, 1998, 3:55 p.m.: 22 IR 456; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-9) to the State Board of Cosmetology Examiners (820 IAC 5-1-9) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-10 “Spectral irradiance” defined (Repealed)**

Sec. 10. (*Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461*)

**820 IAC 5-1-11 “Spectral transmittance” defined (Repealed)**

Sec. 11. *(Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)*

**820 IAC 5-1-12 “Sunlamp product” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 12. As used in this rule, “sunlamp product” means any electronic product designed to incorporate one (1) or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelength in air between two hundred (200) and four hundred (400) nanometers, to induce skin tanning. *(State Board of Cosmetology Examiners; 820 IAC 5-1-12; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1377; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-12) to the State Board of Cosmetology Examiners (820 IAC 5-1-12) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-13 “Tanning facility” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 13. As used in this rule, “tanning facility” means a facility that provides persons access to use a sunlamp product and charges a fee for a membership or usage. The term includes any club or association that provides access to a sunlamp to its members. The term does not include a medical treatment facility that uses ultraviolet radiation under the supervision of a licensed physician or other licensed medical practitioner in the treatment of disease. *(State Board of Cosmetology Examiners; 820 IAC 5-1-13; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-13) to the State Board of Cosmetology Examiners (820 IAC 5-1-13) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-14 “Ultraviolet radiation” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 14. As used in this rule, “ultraviolet radiation” includes radiation in the wavelengths between two hundred (200) and four hundred (400) nanometers. *(State Board of Cosmetology Examiners; 820 IAC 5-1-14; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-14) to the State Board of Cosmetology Examiners (820 IAC 5-1-14) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-15 “Violation” defined**

Authority: IC 25-8-15.4-23

Affected: IC 25-1-11-5; IC 25-8-15.4

Sec. 15. As used in this rule, “violation” means the failure of an owner, agent, or employee of a tanning facility to abide by IC 25-1-11-5 and local ordinances. *(State Board of Cosmetology Examiners; 820 IAC 5-1-15; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-15) to the State Board of Cosmetology Examiners (820 IAC 5-1-15) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-16 License to operate required**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-5

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Sec. 16. A person may not charge a fee for the use of sunlamp products unless the person has a license from the board of cosmetology examiners to operate a tanning facility. A separate license must be obtained for each tanning facility the person operates. (*State Board of Cosmetology Examiners; 820 IAC 5-1-16; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-16) to the State Board of Cosmetology Examiners (820 IAC 5-1-16) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-17 License period**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-9

Sec. 17. A license to operate a tanning facility under this rule shall expire on July 1 of the second succeeding year following the date the license was issued. (*State Board of Cosmetology Examiners; 820 IAC 5-1-17; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-17) to the State Board of Cosmetology Examiners (820 IAC 5-1-17) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-18 License transfers**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-9

Sec. 18. A license can only be transferred when the tanning facility has moved location. Changing ownership of the tanning facility requires a new license. (*State Board of Cosmetology Examiners; 820 IAC 5-1-18; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-18) to the State Board of Cosmetology Examiners (820 IAC 5-1-18) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-19 Government exemption (Repealed)**

Sec. 19. (*Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461*)

### **820 IAC 5-1-20 License application required**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 20. To obtain a license to operate a tanning facility, a person must do the following:

(1) File an application with the board on a form prescribed by the board. Such information shall include the following:

(A) The name, address, and telephone number of the following:

(i) The tanning facility.

(ii) The owner of the tanning facility.

(iii) If the licensee is a corporation, all shareholders owning five percent (5%) or greater who own a sunlamp product.

(iv) If the licensee is a partnership, all partners of a business who own a sunlamp product.

(v) All settlors, trustees, and beneficiaries of trusts who own a sunlamp product.

(B) If the facility is mobile, the location, by address, at which the facility will be parked during the hours it is open for business.

(C) A signed and dated certification that the applicant has read and understands the requirements of this rule.

(D) All additional information requested by the department to substantiate that the proposed facility can reasonably be expected to provide access to sunlamp products without causing a health or safety hazard to its customers.

(2) Pay a fee of two hundred dollars (\$200).

(3) Each person operating a tanning facility on the effective date of this rule shall apply for a permit no later than sixty (60)

days following the effective date of this rule.

(4) Each person establishing or acquiring a tanning facility after the effective date of this rule shall apply to the board for a license and obtain such license prior to operating the facility.

(5) The owner shall maintain and make available for inspection written records that must include the:

- (A) manufacturer;
- (B) year and month of manufacture;
- (C) model number;
- (D) serial number; and
- (E) type;

of each sunlamp product located within the facility.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-20; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1378; filed Sep 17, 1998, 3:55 p.m.: 22 IR 457; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-20) to the State Board of Cosmetology Examiners (820 IAC 5-1-20) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-21 License to be displayed**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-10

Sec. 21. A person holding a tanning facility license issued under this rule shall display the license in a manner that is clearly visible to customers using the tanning facility. *(State Board of Cosmetology Examiners; 820 IAC 5-1-21; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1379; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-21) to the State Board of Cosmetology Examiners (820 IAC 5-1-21) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-22 Notification of changes**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-7

Sec. 22. The operator of a tanning facility shall notify the board in writing before making any changes to the facility or its operating procedures which would require amendment of any information previously submitted to the board in accordance with this rule. Changing ownership of the tanning facility requires the new owner to obtain a new license. *(State Board of Cosmetology Examiners; 820 IAC 5-1-22; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1379; filed Sep 17, 1998, 3:55 p.m.: 22 IR 458; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-22) to the State Board of Cosmetology Examiners (820 IAC 5-1-22) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-23 Equipment construction**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 23. Sunlamp products shall meet the following codes:

(1) All sunlamp product electrical circuits shall be listed by the Underwriter Laboratories (UL) or the Electrical Testing Laboratories (ETL).

(2) Defective or burned out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label or certified by the manufacturer to be equivalent to those specified on the product label.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-23; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1379; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-23) to the State Board of Cosmetology Examiners (820 IAC 5-1-23) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-24 Consumer protection**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 24. There shall be physical barriers to protect customers from injury induced by touching or breaking the lamps in a sunlamp product. Each customer shall be shown how to use suitable physical aids. Each customer shall be shown how to maintain the proper exposure distance recommended by the manufacturer. There shall also be the following requirements:

- (1) The construction of a tanning booth shall be such that it will withstand the stress of use and the impact of a falling person.
- (2) There shall be physical barriers or other means such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the customer's skin in upright tanning booths.
- (3) Each ultraviolet lamp contained within the sunlamp product shall be shielded to prevent contact with the customer. A screen or transparent cover shall be used for this purpose.
- (4) Body contact surfaces of each sunlamp product shall be sanitized by the operator between each customer use by swabbing the body contact surfaces with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution as stated in section 25(d)(1), 25(d)(2), 25(d)(3), or 25(d)(4) of this rule. The swabbing shall be accomplished with single use towels. Exposure to the ultraviolet radiation produced by the tanning equipment itself is not a sanitizing agent for the purposes of this rule.
- (5) The operator of a tanning facility shall keep a list of emergency telephone numbers in view at each tanning facility. This list shall include the telephone numbers of the following:
  - (A) Closest hospital.
  - (B) Fire department.
  - (C) Emergency medical services or, if the service is available, 911.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-24; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1379; filed Sep 17, 1998, 3:55 p.m.: 22 IR 458; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-24) to the State Board of Cosmetology Examiners (820 IAC 5-1-24) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-25 Protective eyewear**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 25. (a) No person shall be allowed to use a sunlamp product unless protective eyewear is worn.

(b) Each consumer shall be provided with protective eyewear and instructions for its use.

(c) The spectral transmittance of the protective eyewear required by this section shall not exceed a value of one-thousandth (0.001) over the wavelength through a range of greater than two hundred (200) nanometers through three hundred twenty (320) nanometers, and a value of one-hundredth (0.01) over the wavelength range of greater than three hundred twenty (320) nanometers through four hundred (400) nanometers, and shall be sufficient over the wavelength greater than four hundred (400) nanometers to enable the user to see clearly enough to prevent injury and to turn the timer off.

(d) Protective eyewear provided by the operator shall be sanitized by the operator before each use by:

- (1) immersion for at least one (1) minute in a clean solution containing at least two hundred (200) milligrams per liter (two hundred (200) parts per million) of available quaternary ammonium compound at a temperature of at least seventy-five (75) degrees Fahrenheit;
- (2) immersion for at least one (1) minute in a clean solution containing at least fifty (50) milligrams per liter (fifty (50) parts per million) of available chlorine as a hypochlorite and at a temperature of at least seventy-five (75) degrees Fahrenheit;
- (3) immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) milligrams per liter (twelve and one-half (12.5) parts per million) of available iodine and at a pH of which the efficacy has been demonstrated to be effective by the manufacturer and at a temperature of at least seventy-five (75) degrees Fahrenheit;
- (4) immersion in a clean solution containing any other chemical sanitizing agent approved by the department that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) milligrams per liter of available chlorine as hypochlorite at a temperature of at least seventy-five (75) degrees Fahrenheit for one (1) minute; or

(5) swabbing with a chemical sanitizing solution of the same strength required under subdivision (1) if quaternary ammonium compounds are used or at least twice the strength required for that particular sanitizing solution if halogens are used under subdivisions (2) through (4).

(e) A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million shall be provided and used to measure the strength of the sanitizing solution at least once each day of tanning facility operation.

(f) Exposure to the ultraviolet radiation produced by the tanning equipment itself is not considered a sanitizing agent.

(g) Each sunlamp product shall be accompanied by at least the number of sets of protective eyewear that is equal to the number of customers who can simultaneously use the facility. Eyewear shall be provided and shall meet or exceed the sunlamp product manufacturer's recommendations. *(State Board of Cosmetology Examiners; 820 IAC 5-1-25; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1379; filed Sep 17, 1998, 3:55 p.m.: 22 IR 458; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-25) to the State Board of Cosmetology Examiners (820 IAC 5-1-25) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-26 Limiting exposure**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 26. Each customer shall be limited to less than or equal to the maximum exposure time recommended by the manufacturer of the sunlamp product. However, in no event shall exposure at a tanning facility be allowed for more than the manufacturer's recommended exposure time for a given skin type in any twenty-four (24) hour period. *(State Board of Cosmetology Examiners; 820 IAC 5-1-26; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1380; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-26) to the State Board of Cosmetology Examiners (820 IAC 5-1-26) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-27 Equipment controls**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 27. (a) A control or kill switch must be incorporated on each sunlamp product which enables the customer to manually terminate radiation without disconnecting the electrical plug or coming into contact with the ultraviolet lamp.

(b) The electric power supply for each sunlamp product must run through a control or kill switch that will enable the operator to manually terminate the radiation. There must be a clear wide path to the kill switches. There shall be no obstructions of any kind in front of the kill switches, including, but not limited to, a circuit breaker cover, chairs, or any boxes or storage on the floor. The controller kill switch must be outside of the room that contains the sunlamp products. *(State Board of Cosmetology Examiners; 820 IAC 5-1-27; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1380; filed Sep 17, 1998, 3:55 p.m.: 22 IR 459; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-27) to the State Board of Cosmetology Examiners (820 IAC 5-1-27) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

#### **820 IAC 5-1-28 Sunlamp product maintenance**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 28. (a) No customer shall be allowed to use a sunlamp product having a defective timer.

(b) All sunlamp products shall be maintained in compliance with this rule concerning repair, labeling, and alteration and accessibility of timing devices. If a part must be replaced, the defective part shall be replaced with a part which complies with 21 CFR 1040.20(c) (April 1988 Edition). Sunlamp products shall be maintained as follows:

(1) For each sunlamp product and ultraviolet lamp, the ratio of the irradiance within the wavelength range of greater than two hundred (200) nanometers through two hundred sixty (260) nanometers to the irradiance within the wavelength range of greater than two hundred sixty (260) nanometers through three hundred twenty (320) nanometers shall not exceed three-thousandths (0.003) at any distance or direction from the product or lamp.

(2) Each sunlamp product shall incorporate a timing device with multiple timer settings adequate for the manufacturer's recommended exposure intervals as follows:

(A) The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the sunlamp product has been terminated.

(B) The timing device shall not automatically reset when emission from the sunlamp product has been terminated. This requirement does not preclude the ability of the customer to reset the time.

(C) The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer shall have an error greater than ten percent (10%) of the maximum timer interval for the product.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-28; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1380; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-28) to the State Board of Cosmetology Examiners (820 IAC 5-1-28) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-29 Warning sign**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-12; IC 25-8-15.4-13

Sec. 29. An operator of a tanning facility shall conspicuously display warning signs in accordance with the following:

(1) A warning sign shall be posted in each tanning facility room where customers arrange for the use of a sunlamp product, in each tanning facility room where customers wait to use a sunlamp product, and in the immediate proximity of and no less than one (1) meter or thirty-nine (39) inches from each sunlamp product. The warning sign shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item present so that the customer can easily view the warning sign before energizing the ultraviolet light generating equipment. The warning sign shall meet the following requirements:

(A) The uppercase letters on the warning sign in the room where the customers pay for the use of a sunlamp product and in the room where the customers wait to use a sunlamp product shall be at least eighteen (18) millimeters or eleven-sixteenths (1 1/16) inch tall and the lowercase letters shall be at least thirteen (13) millimeters or one-half (1/2) inch tall.

(B) The uppercase letters on the warning sign in the immediate proximity of the sunlamp product shall be at least ten (10) millimeters or seven-sixteenths (7/16) inch tall and the lowercase letters shall be five (5) millimeters or one-fourth (1/4) inch tall.

(2) The warning signs required by subdivision (1) shall state the following:

WARNING: ULTRAVIOLET RADIATION

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES

1. Protective eyewear is required by law.

2. Follow instructions.

3. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause skin cancer or chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin.

4. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Medication or cosmetics may increase sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have history of skin problems, or believe you are especially sensitive to sunlight. Individuals on birth control medication who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN IT IS UNLIKELY THAT YOU WILL TAN FROM THE USE OF THIS DEVICE

*(State Board of Cosmetology Examiners; 820 IAC 5-1-29; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1381; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-29) to the State Board of Cosmetology Examiners (820 IAC 5-1-29) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

**820 IAC 5-1-30 Customer warning**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-11

Sec. 30. Before a person uses a tanning device in a tanning facility, the operator, owner, or employee of the operator or owner



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of the tanning facility shall require the person to read and sign a written statement approved by the department that contains the following information:

- (1) A person who uses a tanning device in this tanning facility must use protective eyewear.
- (2) If the provided eye protection is not worn, use of a tanning device in this tanning facility may cause damage to the eyes.
- (3) Overexposure to the ultraviolet radiation produced by a tanning device in this tanning facility may cause burns.
- (4) Exposure to the ultraviolet radiation produced by the tanning devices in this tanning facility may cause premature aging of the skin and skin cancer.
- (5) Abnormal skin sensitivity to ultraviolet radiation or burning may be caused by certain foods, cosmetics, or medication, including the following:
  - (A) Tranquilizers.
  - (B) Diuretics.
  - (C) Antibiotics.
  - (D) High blood pressure medication.
  - (E) Birth control medication.
  - (F) Other photosensitizing agents as determined under rules adopted by the board.
- (6) An individual who is taking a prescription drug or over-the-counter drug should consult a physician before using a tanning device.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-30; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1381; filed Sep 17, 1998, 3:55 p.m.: 22 IR 459; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-30) to the State Board of Cosmetology Examiners (820 IAC 5-1-30) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

### **820 IAC 5-1-31 Parental supervision**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-15

Sec. 31. (a) A person who is less than sixteen (16) years of age must be accompanied by a parent or guardian while the child is using a sunlamp product in a tanning facility and while that sunlamp product is in use.

(b) A person who is less than eighteen (18) years of age may not use a sunlamp product in a tanning facility unless the parent or guardian of the person has also signed the written statement under section 34 of this rule in the presence of the operator of the tanning facility. *(State Board of Cosmetology Examiners; 820 IAC 5-1-31; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1382; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-31) to the State Board of Cosmetology Examiners (820 IAC 5-1-31) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

### **820 IAC 5-1-32 Records**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 32. The operator shall require each customer to fill out a form specifying home address, phone number, and age. This form shall be kept as a permanent record of the individual's attendance. *(State Board of Cosmetology Examiners; 820 IAC 5-1-32; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1382; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-32) to the State Board of Cosmetology Examiners (820 IAC 5-1-32) by P.L.142-1995, SECTION 33, effective July 1, 1995.*

### **820 IAC 5-1-33 Assurance of notification**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 33. (a) Each time a customer uses a tanning facility, or each time a customer executes or renews a contract to use a tanning facility, the customer must, before using a sunlamp product, sign a written statement that he or she:

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- (1) has read and understood the warnings specified in sections 29 through 30 of this rule before using the device;
- (2) agrees to use the protective eyewear that the tanning facility provides;
- (3) understands that some people who are not susceptible to tanning under natural sunlight may also not be susceptible to tanning under artificial light; and
- (4) has not used a tanning device within the past twenty-four (24) hours.

(b) For visually handicapped persons, the warning statement shall be read by the operator in the presence of a witness. Both the witness and the operator shall sign the statement.

(c) The owner or operator must maintain for a period not less than twenty-four (24) months, a record signed by the customer that he or she has read and understood the warning required in sections 29 through 30 of this rule.

(d) Records of each customer's total number of tanning visits and tanning times must be kept at the tanning facility and available for inspection for one (1) year. In addition, records up to five (5) years old must be provided to the board on request, although they need not be kept at the tanning facility. It is recommended that records be kept permanently, as potentially adverse health effects from tanning may not become apparent within five (5) years. (*State Board of Cosmetology Examiners; 820 IAC 5-1-33; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1382; filed Sep 17, 1998, 3:55 p.m.: 22 IR 460; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-33) to the State Board of Cosmetology Examiners (820 IAC 5-1-33) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-34 Training**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 34. (a) Each operator must be adequately trained prior to serving the customers. Training shall include the following:

- (1) The requirements of sections 22 through 33 of this rule.
- (2) Procedures for correct operation of the facility.
- (3) How to recognize injury or overexposure.
- (4) Manufacturer's procedures for operation and maintenance of sunlamp products.
- (5) Emergency procedures in case of injury.

(b) A list of operators trained in accordance with this section shall be maintained and available at the facility during employment and for a period of one (1) year after termination. The list shall include the name, last known mailing address, and home telephone number of each operator. (*State Board of Cosmetology Examiners; 820 IAC 5-1-34; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1382; filed Sep 17, 1998, 3:55 p.m.: 22 IR 460; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-34) to the State Board of Cosmetology Examiners (820 IAC 5-1-34) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-35 Local zoning requirements**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-7

Sec. 35. Tanning facilities shall meet all requirements of the local zoning commission and shall be approved by said commission before construction or operation begins. (*State Board of Cosmetology Examiners; 820 IAC 5-1-35; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1382; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-35) to the State Board of Cosmetology Examiners (820 IAC 5-1-35) by P.L.142-1995, SECTION 33, effective July 1, 1995.

### **820 IAC 5-1-36 Safe water supply**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-14

Sec. 36. A tanning facility shall be provided with safe, potable water. (*State Board of Cosmetology Examiners; 820 IAC 5-1-36; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1383; filed Sep 17, 1998, 3:55 p.m.: 22 IR 460; errata, 22 IR 3420; readopted filed Jul*

17, 2001, 9:57 a.m.: 24 IR 4236) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-36) to the State Board of Cosmetology Examiners (820 IAC 5-1-36) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-37 Water supplied under pressure (Repealed)**

Sec. 37. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-38 Location of tanning facility water supplies (Repealed)**

Sec. 38. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-39 Well head location (Repealed)**

Sec. 39. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-40 Well casing construction (Repealed)**

Sec. 40. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-41 Pump and pressure tank sizing (Repealed)**

Sec. 41. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-42 Water distribution system disinfection (Repealed)**

Sec. 42. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-43 Water supply construction (Repealed)**

Sec. 43. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-44 Sewage disposal (Repealed)**

Sec. 44. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-45 Sewage disposal system type (Repealed)**

Sec. 45. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-46 Sewage disposal system construction (Repealed)**

Sec. 46. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-47 Sewage disposal system location (Repealed)**

Sec. 47. (Repealed by State Board of Cosmetology Examiners; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461)

**820 IAC 5-1-48 Advertising requirements**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4-13

Sec. 48. A tanning facility owner or operator shall not claim, or distribute promotional material that claims, that using a sunlamp product is safe or free from risk. A tanning facility owner or operator shall not advertise or promote special unlimited use of the tanning facilities that encourage customers to repetitively use the facility beyond the manufacturer's recommended limits for a twenty-four (24) hour period. (*State Board of Cosmetology Examiners; 820 IAC 5-1-48; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1384; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-48) to the State Board of Cosmetology Examiners (820 IAC 5-1-48) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-49 Levying civil penalties**

Authority: IC 25-8-15.4-23

Affected: IC 4-21.5; IC 25-8-15.4

Sec. 49. (a) The board may commence an action to levy civil penalties against the owner or operator of a tanning facility who does either of the following:

(1) Fails to comply with any federal, state, or local statute, rule, or ordinance regarding sunlamp products or the operation of any enterprise that owns sunlamp products.

(2) Interferes with or obstructs the board or its designated agent in the performance of its duties.

(b) A civil penalty shall not exceed one thousand dollars (\$1,000) per violation and the absence of harm will not result in assessment of a lower penalty for a violation.

(c) In the determination of the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the department will consider the following:

(1) The potential for harm or imminent threat to public health.

(2) The extent of deviation from statutory or regulatory requirements.

(3) The degree of willfulness or negligence.

(4) Any history of noncompliance.

(d) After determining the appropriate penalty based on the schedule in this section, the department may adjust the penalty to reflect a good faith effort to comply by the owner or operator of a tanning facility.

(e) Each individual penalty may be multiplied by the number of days the particular violation occurred.

(f) After filing an action under IC 4-21.5, and in an attempt to resolve violations without resort to a hearing, the department may negotiate and enter into agreed orders. An agreed order may suspend all or part of the civil penalty calculated under the requirements and deadlines established in the agreed order. (*State Board of Cosmetology Examiners; 820 IAC 5-1-49; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1384; filed Sep 17, 1998, 3:55 p.m.: 22 IR 460; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-49) to the State Board of Cosmetology Examiners (820 IAC 5-1-49) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-50 Incorporation by reference**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

Sec. 50. When used in this rule, 21 CFR 1040.20, (April 1988) is hereby incorporated by reference. This federal rule as incorporated does not include any later amendments than those specified in the incorporation citation. Sales of the CFR are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The incorporated material is available for public review at the Indiana state department of health. (*State Board of Cosmetology Examiners; 820 IAC 5-1-50; filed Mar 17, 1992, 10:20 a.m.: 15 IR 1385; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 6-13-50) to the State Board of Cosmetology Examiners (820 IAC 5-1-50) by P.L.142-1995, SECTION 33, effective July 1, 1995.

**820 IAC 5-1-51 Injuries**

Authority: IC 25-8-15.4-23

Affected: IC 25-8-15.4

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Sec. 51. Operators must promptly report any injury that:

- (1) would be considered life threatening;
- (2) could result in permanent injury; or
- (3) could necessitate any form of medical treatment or first aid.

*(State Board of Cosmetology Examiners; 820 IAC 5-1-51; filed Sep 17, 1998, 3:55 p.m.: 22 IR 461; readopted filed Jul 17, 2001, 9:57 a.m.: 24 IR 4236)*

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