

**CHAPTER 28**  
**TANNING FACILITIES**

**Authority**

N.J.S.A. 26:2D-81 et seq., particularly 26:2D-88.

**Source and Effective Date**

R.2009 d.37, effective January 20, 2009.  
See: 40 N.J.R. 949(a), 41 N.J.R. 585(a).

**Chapter Expiration Date**

Chapter 28, Tanning Facilities, expires on January 20, 2014.

**Chapter Historical Note**

Chapter 28, Tanning Facilities, was adopted as new rules by R.2009 d.37, effective January 20, 2009. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**8:28-1.1 Purpose and scope**

(a) The purpose of this chapter is to:

1. Implement N.J.S.A. 26:2D-81 et seq. (P.L. 1989, c. 234, amended and supplemented by P.L. 2006, c. 48); and
2. Establish minimum safety and sanitation standards for the operation of tanning facilities in order to protect the health and safety of consumers that patronize tanning facilities.

(b) The provisions of this chapter shall apply to all tanning facilities and the local boards of health for the municipalities in which the tanning facilities are located.

1. This chapter establishes the registration and inspection requirements for tanning facilities, standards for the operation of the facilities, and enforcement provisions.

**8:28-1.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means N.J.S.A. 26:2D-81 et seq. and this chapter.

“Commissioner” means the Commissioner of the New Jersey Department of Health and Senior Services, or his or her designee.

“Communicable disease” means diseases or conditions as defined in N.J.A.C. 8:57-1.

“Consumer” means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

“Department” means the New Jersey Department of Health and Senior Services.

“EPA” means the U.S. Environmental Protection Agency.

“Equivalent” or “equivalency” means equal to the sunlamp product’s original equipment manufacturer’s specifications within irradiance tolerances allowed by the FDA.

1. Equivalent replacement parts are fully compatible with the sunlamp products for which they are used, and do not significantly alter the irradiance output of the sunlamp product at the consumer exposure distance, in accordance with the manufacturer’s specifications.

“FDA” means the U.S. Food and Drug Administration.

“Handholds” means a physical aid that will help to maintain consumer safety and proper exposure distance, constructed pursuant to N.J.A.C. 8:28-3.1(b)4 and 5.

“Inspection” means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the Department, established pursuant to this chapter.

“Minor” means any individual less than 18 years of age.

“Operator” means a trained person, no less than 16 years of age, designated by the registrant to control operation of the tanning facility and to instruct and assist a consumer in the proper operation of the tanning equipment.

“Operator training” means a course of instruction conducted or presented under formal classroom conditions, a correspondence program, or through a computer-based program by a person possessing adequate knowledge and experience to offer the curriculum, associated training, and certification testing pertaining to and associated with the safe use of tanning equipment, as established in N.J.A.C. 8:28-3.11.

“Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, or any other state and any legal successor, representative or agent of the foregoing.

“PHSSP” means the Public Health Sanitation and Safety Program in the Division of Consumers and Environmental Health at the New Jersey Department of Health and Senior Services.

“PHSSP mailing address” means the following mailing address for the Public Health Sanitation and Safety Program of the Department’s Consumer and Environmental Health Service, PO Box 369, Trenton, NJ 08625-0369.

“PHSSP webpage” means the internet webpage for the Public Health Sanitation and Safety Program of the Department’s Consumer and Environmental Health Service located at [www.state.nj.us/health/eoh/phss](http://www.state.nj.us/health/eoh/phss).

“Protective eyewear” means any FDA-compliant device designed to be worn by users of a sunlamp product to reduce exposure of the eyes to radiation emitted by the product.

“Registrant” means any person who is registered with the Department and who is legally obligated to register with the Department pursuant to the provisions of the Act.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation within a range of wavelengths, specified by the manufacturer, to induce skin tanning.

“Tanning equipment” means any equipment used during the process of skin tanning with a sunlamp product, including, but not limited to, protective eyewear, timers, ballasts, starters, ultraviolet lamps, reflectors, cooling fans, acrylics, comfort pillows, and handholds.

“Tanning facility” or “facility” means any location, place, area, structure or business that, either as a sole service or in conjunction with other services, provides consumers with access to sunlamp products, ultraviolet lamps or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical purposes.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any lamp intended for use in sunlamp products that produces ultraviolet radiation within a range of wavelengths, specified by the manufacturer.

“Ultraviolet radiation” means electromagnetic radiation with wavelength in air between 200 nanometers and 400 nanometers.

## SUBCHAPTER 2. REGISTRATION AND INSPECTION

### 8:28-2.1 Initial registration

(a) Any person that wants to operate a tanning facility within this State shall register the facility with the Department pursuant to the Act.

(b) If a person owns or operates more than one tanning facility, the person shall file a separate application for registration for each tanning facility.

(c) A person that owns or operates a tanning facility shall apply for registration of each facility with the Department as follows:

1. By April 20, 2009, for a facility in existence on January 20, 2009; and
2. Prior to operation of the facility, for a new facility established after January 20, 2009.

(d) Each applicant for registration shall complete an Application for Tanning Facilities Registration form, incorporated herein by reference, as set forth at chapter Appendix A.

(e) Each applicant shall submit with the registration application form an annual, non-refundable, registration fee, in accordance with the following fee schedule.

1. All sunlamp products provided in a tanning facility shall be subject to the registration fee schedule.
2. A tanning facility that provides up to and including 10 sunlamp products shall pay an annual fee of \$300.00.

APPENDIX A

New Jersey Department of Health and Senior Services  
 Consumer and Environmental Health Services  
 Public Health Sanitation and Safety Program  
 PO Box 369  
 Trenton, NJ 08625-0369

**APPLICATION FOR TANNING FACILITIES REGISTRATION**  
 (AUTHORITY: N.J.S.A. 26:2D-81 et seq., particularly 26:2D-88)

<p>Registration Status (Check only one):</p> <p><input type="checkbox"/> Initial Registration</p> <p><input type="checkbox"/> Annual Renewal Registration</p> <p><input type="checkbox"/> Change of Registration Information</p> <p>The Application for Registration shall be accompanied by a single certified check (i.e., cashiers check) or money order, and shall be made payable to "Treasurer, State of New Jersey." Personal checks shall not be accepted.</p>	<p style="text-align: center;"><b>FEE SCHEDULE</b></p> <p>Initial Registration or Annual Renewal Registration:                  \$300.00 (includes first ten sunlamp products) plus \$10.00 for each additional sunlamp product.</p> <p>Change of Registration Information:                  No fee required</p> <p>\$300.00 + [\$10.00 x (number of sunlamp products &gt; 10)] = \$ _____</p>
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Instructions:  
 For **Initial Registration**: Complete all information requested on this Application form.  
 For **Annual Renewal Registration**: Update the Initial Registration Application with any new or corrected information.  
 For **Change of Registration Information**: Update the Initial Registration Application with any new or corrected information.

FACILITY INFORMATION					
Name of Tanning Facility			Telephone Number	Email Address	
Street Address			Mailing Address (if different)		
City	State	Zip Code	City	State	Zip Code
FACILITY OWNERSHIP (Attach an additional sheet, if necessary.)					
Name of Owner			Telephone Number	Email Address	
Street Address			Mailing Address (if different)		
City	State	Zip Code	City	State	Zip Code
Name of Owner			Telephone Number	Email Address	
Street Address			Mailing Address (if different)		
City	State	Zip Code	City	State	Zip Code
FACILITY OPERATION					
Days and Hours of Facility Operation					
Primary Type of Business in which the Tanning Facility is located:					
<input type="checkbox"/> Tanning Salon <input type="checkbox"/> Beauty/Nail Salon <input type="checkbox"/> Health Club/Fitness Center <input type="checkbox"/> Other _____					
Number of Sunlamp Products Provided in the Tanning Facility:					

**APPLICATION FOR TANNING FACILITIES REGISTRATION  
(Continued)**

Provide the following information for each ultraviolet lamp or sunlamp product:

Manufacturer	Model Number	Serial Number	Type (Bed, Booth, Facial, Other)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*Attach an additional sheet, if necessary.*

Names, addresses and telephone numbers of the tanning equipment suppliers, installers and service agents, if appropriate:

Name	Address	Telephone Number	Indicate whether Supplier, Installer or Service Agent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*Attach an additional sheet, if necessary.*

Names of all trained tanning facility operators:

Name	Name	Name
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*Attach an additional sheet, if necessary.*

In addition to this completed application form, the applicant shall provide the following required documents to the Department for review:

- Copy of the operating and safety procedures unique to the tanning facility;
- Copy of the information and/or instructions provided to consumers of the tanning facility;
- Outline of the Operator Training Curriculum; and
- Documentation that tanning facility operators have satisfactorily completed required training as specified in N.J.A.C. 8:28-3.11, including the names of trainer and/or training program.

**CERTIFICATION BY APPLICANT**

I have received and read the New Jersey Tanning Facilities Standards, N.J.A.C. 8:28 and I certify that this tanning facility meets these standards. I realize I will be liable for fines and/or sanctions specified in the standards if I fail to correct violations of these standards as cited by the Department or local board of health. I certify that statements made in this application are true, complete and correct to the best of my knowledge and belief.

Name of Applicant <i>(Print)</i>	Title
Signature of Applicant	Date

APPENDIX B

New Jersey Department of Health and Senior Services  
 Consumer and Environmental Health Services  
 Public Health Sanitation and Safety Program  
 PO Box 369, Trenton, NJ 08625-0369

**TANNING FACILITY INSPECTION CHECKLIST**  
 (AUTHORITY: N.J.S.A. 26:2D-81 et seq., particularly 26:2D-88)

Name of Tanning Facility			Date of Inspection
Address of Tanning Facility			Registration Number
Met	Not Met	N.J.A.C. 8:28-3	OPERATION OF TANNING FACILITIES
		<b>3.1</b>	<b>Equipment</b>
		3.1(a)	Sunlamp products and tanning equipment conform to FDA performance standard
		3.1(b)	Physical barriers to protect consumer <ul style="list-style-type: none"> <li>• Well constructed, with handholds and non-slip floors</li> <li>• Booth doors open outward and readily opened in emergency</li> <li>• Timers FDA-compliant: remote timer controlled by operator, timer tested annually, timer accuracy ±10%</li> <li>• Emergency shut-off switch readily accessible to consumer</li> </ul>
		3.1(c)	Replacement UV lamps conform to original manufacturer's equipment or equivalent as specified by manufacturer
		<b>3.2</b>	<b>Construction</b>
		3.2(a)	Restroom(s) and dressing room(s) provided <ul style="list-style-type: none"> <li>• Toilet, sink, hand soap, hand-drying device, safe and sanitary water</li> <li>• Construction conforms to State and local codes</li> </ul>
		3.2(b)	Physical facility conforms to State and local codes <ul style="list-style-type: none"> <li>• Well ventilated</li> <li>• Tanning bed/booth temperature &lt;100°F</li> </ul>
		<b>3.3</b>	<b>Sanitation and Maintenance of Tanning Facilities</b>
		3.3(a)	Clean and sanitary, and equipment maintained per manufacturer
		3.3(b)	Equipment cleaned and properly disinfected between uses
		3.3(c)	Clean towels provided
		3.3(d)	Pets prohibited in tanning facilities (excepting assistance pets)
		<b>3.4</b>	<b>Warning Sign</b>
		3.4(a)	Conspicuously displayed
		3.4(b)	Specified size
		<b>3.5</b>	<b>Warning Statement and Tanning Authorization</b>
		3.5(a)	Document provided prior to initial session and annually thereafter
		3.5(b)	Signed, and copy provided to consumer or parent/legal guardian
		<b>3.6</b>	<b>Protective Eyewear</b>
		3.6(a-d)	FDA compliant protective eyewear (consumer's or facility's) available and protective eyewear use required
		3.6(e)	Reusable eyewear cleaned and properly disinfected by facility personnel
		<b>3.7</b>	<b>Protection of Consumers – General</b>
		3.7(a)	Trained operator onsite at all times
		3.7(b)	Procedure manual readily available onsite to personnel
		3.7(c)	Photosensitivity agent list readily available onsite to consumers and personnel and reviewed with consumers prior to initial session and annually thereafter

**TANNING FACILITY INSPECTION CHECKLIST  
(Continued)**

Name of Tanning Facility		Date of Inspection
	3.7(d)	Consumer assistance provided when needed
	3.7(e)	Emergency contact list readily available for use by personnel
	<b>3.8</b>	<b>Protection of Consumers – Minors</b>
	3.8(a)	Minors <14 years of age prohibited from sunlamp product use
	3.8(b)	Written authorization by parent or legal guardian for minors 14-18 years of age
	3.8(c-d)	Parent or legal guardian sign Warning Statement and Tanning Authorization in the presence of tanning facility operator and given copy
	3.8(e)	Identification and age documentation for consumer or parent/legal guardian verified, photocopied and retained in consumer's record
	3.8(f)	Sign with statement of facility practice regarding minors conspicuously posted in the facility's reception area
	<b>3.9</b>	<b>Protection of Consumers – Exposure Limits</b>
	3.9(a)	Individualized skin phototype evaluation provided for each consumer
	3.9(b)	Operator instructs consumers in maximum exposure time and distance for skin phototype and sunlamp product used, per manufacturers' instructions
	3.9(c)	Operator ensures that consumer does not exceed maximum exposure time
	3.9(e)	Operator instructs consumer in location of emergency shut-off switch
	<b>3.10</b>	<b>Protection of Personnel</b>
	3.10(a)	No tanning as compensation for work
	3.10(b)	Personnel comply with all provisions of Tanning Facilities rule
	3.10(c)	Personal protective equipment (PPE) provided and used by personnel
	3.10(d)	No unnecessary exposure of personnel to UV radiation
	<b>3.11</b>	<b>Training of Personnel</b>
	3.11(a-c)	Operators trained using approved curriculum for facility
	3.11(d)	Contents of facility's approved training curriculum <ul style="list-style-type: none"> <li>• N.J.A.C. 8:28 (Tanning Facilities) and 21 CFR § 1040.20 (FDA sunlamp product performance standard)</li> <li>• Facility's procedure manual</li> <li>• User instructions for all sunlamp products provided onsite</li> <li>• Summary of biological effects of UV exposure</li> <li>• Guidelines for operators regarding injury and overexposure</li> <li>• Warning Statement and Tanning Authorization procedure</li> <li>• Photosensitivity agent list</li> <li>• Protective eyewear use</li> <li>• Emergency procedures</li> </ul>
	3.11(e)	Vendor material for curriculum
	3.11(f)	Competency evaluation for personnel
	3.11(g)	Documentation of operator training
	<b>3.12</b>	<b>Records</b>
	3.12(a-b)	Registrant responsible for record retention <ul style="list-style-type: none"> <li>• Retained onsite for three years</li> <li>• Provided in electronic (w/backup) or printed form</li> <li>• Available for review by Department and local board of health</li> </ul>

**TANNING FACILITY INSPECTION CHECKLIST  
(Continued)**

Name of Tanning Facility			Date of Inspection
		3.12(c)	Required records <ul style="list-style-type: none"> <li>• Copies of registration applications</li> <li>• Copies of Certificates of Registration</li> <li>• Consumer file                         <ul style="list-style-type: none"> <li>• Skin phototype evaluation</li> </ul> </li> <li>• Exposure schedules for sunlamp products used</li> <li>• Tanning session record with date, time and duration</li> <li>• Copy of Warning Statement and Tanning Authorization</li> <li>• Age and identity documentation for consumers and parents or legal guardians</li> <li>• List of facility's trained operators</li> <li>• Documentation of personnel training per N.J.A.C 8:28-3.11</li> <li>• Annual timer test results</li> <li>• Sunlamp product information                         <ul style="list-style-type: none"> <li>• User instructions</li> <li>• Exposure schedule</li> </ul> </li> <li>• Record of repairs and modifications</li> <li>• UV lamp replacement logs</li> <li>• Equivalency documentation for replacement lamps and equipment</li> </ul>
		<b>3.13</b>	<b>Advertising and Promotion</b>
		3.13(a)-(b)	No "safe" claims, false or misleading statements
		3.13(c)-(d)	No reference to registration with Department in ads/promotions and no claims of Department or local board of health approval of tanning
Comments			
Name of Inspector			Name of Local Health Department
Signature			Date

APPENDIX C

New Jersey Department of Health and Senior Services  
 Consumer and Environmental Health Services  
 Public Health Sanitation and Safety Program  
 PO Box 369  
 Trenton, NJ 08625-0369

**WARNING STATEMENT AND TANNING AUTHORIZATION**  
 (AUTHORITY: N.J.S.A. 26:2D-81 et seq., particularly 26:2D-88)

Please read the following information and acknowledge that you understand and accept all provisions by signing below:

**DANGER – ULTRAVIOLET RADIATION**

- **Follow instructions.**
- **As with natural sunlight, overexposure may cause eye and skin injury and allergic reactions. Repeated overexposure may cause premature aging of the skin and/or skin cancer.**
- **Wear Food and Drug Administration compliant protective eyewear. Failure to use protective eyewear may result in severe burns and/or long-term injury to the eyes.**
- **Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp indoor tanning beds or booths if you are pregnant, using medications or have a history of skin problems or believe yourself especially sensitive to sunlight.**
- **If you do not tan in the sun, you are unlikely to tan from the use of this product.**
- **If you believe that you have been injured by this tanning equipment, you should contact: New Jersey Department of Health and Senior Services, Consumer and Environmental Health Services, PO Box 369, Trenton, NJ 08625-0369, Telephone Number: 609-588-3124.**

I have read the contents of this form carefully and state the following:

- I do not have any medical condition or take any medication that would prohibit me from tanning.
- The operator has reviewed the photosensitizing agent list with me, pursuant to N.J.A.C. 8:28-3.7(c)1, and I had the opportunity to ask questions.
- I have been given a skin phototype evaluation by the tanning facility operator, and I am **NOT** in skin phototype **CLASS I**. That is, I am capable of tanning outdoors in the sun without burning.
- I understand that I will not be permitted to exceed the maximum allowable exposure time posted on the tanning device for my skin phototype.
- I have been given adequate instructions for the proper use of the tanning equipment and I understand the risks involved.
- I agree to wear FDA compliant protective eyewear at all times when tanning.
- I attest that I am at least 14 years of age and, if under 18 years of age, I have been given permission to tan from my parent or legal guardian.
- I attest that I have provided accurate age and identity verification.

Name of Consumer ( <i>Print</i> )	Age of Consumer
Signature of Consumer	Date

**WARNING STATEMENT AND TANNING AUTHORIZATION  
(Continued)**

**TO BE COMPLETED BY PARENT/LEGAL GUARDIAN**

As parent or legal guardian for the above consumer – a minor at least 14 years of age but less than 18 years of age – I acknowledge that I have read and understood the safety standards and warnings provided to me by the tanning facility operator and thereby authorize the consumer named above to tan using a sunlamp product. I attest that I have provided accurate age, identity and relationship verification.

Name of Parent/Legal Guardian ( <i>Print</i> )	Relationship <input type="checkbox"/> Parent <input type="checkbox"/> Legal Guardian
Signature of Parent/Legal Guardian	Date

**TO BE COMPLETED BY TANNING FACILITY OPERATOR**

Name of Tanning Facility Operator ( <i>Print</i> )	
Signature of Operator	Date

For illiterate or visually impaired consumers, I attest that I have read the above warning statement to the consumer, who subsequently acknowledged his or her understanding and consent.

Name of Tanning Facility Operator ( <i>Print</i> )	
Signature of Operator	Date

**NOTE:**

**A copy of this signed and dated statement shall be provided to the consumer, or the consumer's parent or legal guardian when required, and a copy shall be retained by the tanning facility in the consumer's record with the corresponding identification and age documentation.**