

2010 Report to Joint Standing Committee on Health and Human Services

from the Department of Health and Human Services

Pursuant to:

CHAPTER 119 S.P. 137 - L.D. 395 Resolve, To Further Regulate the Use of Tanning Booths by Minors

The first regular session of the 124th Maine Legislature passed the above resolve that in part directed the Department of Health and Human Services (DHHS) to convene a work group of representatives of operators of tanning facilities and representatives of a statewide consortium active in the prevention and treatment of cancer, and other interested parties to examine existing rules, training requirements, and compliance issues, and funding methods. Each of the areas main findings is addressed below. A report of the workgroup finding was to be submitted to the joint standing committee on Health and Human Services by January 15, 2010.

The Radiation Control Program at the Maine CDC oversees tanning facilities in Maine.. The program conducted a mailing to all indoor tanning facilities at the end of August, and attended a industry trade show on November 1-2, 2009, to discuss the new law and to get feedback from the regulated community. The program then scheduled workshops with representatives of the required groups, held at the DHHS office in the Key Bank Building, on 19 November and 11 December 2009. In attendance were the following:

Andrea Fletcher	Maine CDC representative on the Maine Skin Cancer Workgroup
Ken Smith	Co-chair of the Maine Skin Cancer Workgroup; Genetech BioOncology
Diane Peterson	Co-chair of the Maine Skin Cancer Workgroup; Mercy Hospital
Jayson Abbott	Central Maine Tanning Supply
William Guerrette	Sun Tan City
Cami Hondel	Local Acapulco
Jay Hyland	Maine Radiation Control Program Manager
Tom Hillman	Maine Radiation Control Program Tanning Inspector

Existing Rules

The existing Rules Relating to Tanning Facilities are located in the Code of Maine Rules (CMR) 10-144 Department of Health and Human Services – General, Chapter 223. The workshops reviewed the rules and updated language and definitions not reviewed since 1991. The program performed extensive research by reviewing rules and policies used by other States regulating tanning facilities to establish current trends across the nation. The workgroup agreed on the changes, which will be reflected in a revision of the rules to be completed in 2010. Major changes are reflected in the three areas shown below.

Training Requirements

Existing rules allow operators of tanning facilities to informally train themselves and their employees in the use and operation of tanning equipment. Informal training is defined as the operator reading the owners manual on the equipment or studying other resources. Many operators attend formal classroom or “online” training on a voluntary basis. Inspections of tanning facilities by DHHS have found a trend resulting in fewer violations of rules by those facilities where at least one operator is formally trained.

The workgroup drafted rules to require at least one operator of tanning equipment to be formally training by attending a classroom or “online” training course. Such courses are offered periodically in the State or on the internet by private vendors and can be completed in approximately one (1) day. Trained operators will be required to then informally train other operators within their facility. The training vendors and their curriculum will be approved by DHHS.

Compliance Issues

Starting in 2009, the Radiation Control Program has conducted inspections on a routine basis utilizing its current inspectors. The stakeholders felt that routine inspections will better regulate the tanning industry within the State resulting in better compliance to the existing and revised rules as well as a better product for the consumer.

Existing rules did not establish fines due to non-compliance; they only stated maximum amounts of potential fines by reference to statute. The workgroup is drafting rules to incorporate escalated enforcement procedures and fines similar in structure to the existing rules used within the Radiation Control Program (in the Rules Relating to Radiation Protection, 10-144 chapter 220 subpart B). The base fine, while adjustable both up and down depending on severity level of the violation and actions taken by the facility, would start at \$200.00.

Funding Methods

Existing rules and past practices classify Maine as a State that regulates and inspects tanning facilities. This is an important classification since not all States regulate or inspect. Those that do regulate and/or inspect charge registration fees to fund such programs. The amount of the fees depends on whether a State inspects facilities routinely or not. States that do inspect routinely, as Maine does, charge flat fees for a facilities registration and/or a fee per piece of tanning equipment (i.e. a tanning bed or booth). Texas charges \$220 per registration while Oregon charges \$100 per piece of equipment. Florida charges for both with a \$150 registration fee and \$55 per piece of equipment. Of the States that regulate and inspect, similar fees were found; Maine was found to be clearly antiquated by charging \$40 per registration.

The workgroup believed that a base fee per facility and an additional fee per piece of tanning equipment was the fairest method. Evaluation of the program’s budget requirements result in an estimated:

Registration Fee: \$100 Fee per Tanning Equipment: \$25

For the typical beauty salon operating one tanning bed, this would be a three-fold increase in fees (from \$40 to \$125). The State has not increased fees since regulation was emplaced in 1991. Compared to States operating similar programs, the fee is reasonable. The current fee brings in \$13,500.00 per year and falls far short of covering administrative and inspection costs. The new fees are expected to bring in \$60,000 per year which we feel should cover programmatic costs.