WEST VIRGINIA CODE CHAPTER 16 ARTICLE 45

WV Legislature

§16-45-1. Definitions.

As used in this article:

(1) "Photo therapy device" means a device used for exposure to daylight or to specific wavelengths of light using lasers, light-emitting diodes, fluorescent lamps, dichroic lamps or very bright, full-spectrum light, usually controlled with various devices.

(2) "Tanning device" means any equipment that emits radiation used for tanning of the skin, such as a sun lamp, tanning booth or tanning bed, and includes any accompanying equipment, such as protective eye wear, timers and handrails.

(3) "Tanning facility" means any commercial location, place, area, structure or business where a tanning device is used for a fee, membership dues or other compensation.

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§16-45-2. Exception for health care providers.

Nothing in this article may be construed as prohibiting any health care provider licensed under chapter thirty of this code from performing any action within the scope of his or her practice that results in prescribing the use of a photo therapy device to a patient regardless of the patient's age for treatment of a medical condition.

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§16-45-3. Operation standards.

(a) A tanning facility shall provide to any patron who wishes to use a tanning device located within its tanning facility a disclosure and consent form relating to use of a tanning device that contains the current United States Food and Drug Administration warning as follows: "Danger. Ultraviolet Radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN CANCER. WEAR PROTECTIVE EYEWEAR; FAILURE TO DO SO MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult physician before using tanning device if you are 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 use of this product."

The disclosure and consent form must have a place for the patron's signature and the date. A signed and dated copy of the disclosure and consent form shall be maintained by the tanning facility and remains valid for one year from the date it was signed.

(b) All patrons are required to present proof of age prior to use of a tanning device. Proof of age shall be satisfied with a driver's license or other government-issued identification containing the date of birth and a photograph of the individual. Persons under the age of eighteen may not be permitted to use a tanning device.

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§16-45-4. Local health department authority to inspect.

Local health departments shall have the authority to enter and inspect a tanning facility to determine compliance with the requirements of this article.

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§16-45-5. Violations and penalties.

(a) Any owner of a tanning facility who violates the requirements of this article is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined $100.

(b) For a second offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $250 nor more than $500.

(c) For a third offense or subsequent offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000.

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