



**alPHa Submission: Consultation on Regulation Development for the Skin
Cancer Prevention Act (Tanning Beds)
December 11, 2013**

On behalf of member Medical Officers of Health, Boards of Health and Affiliate organizations of the Association of Local Public Health Agencies (alPHa), I am writing today to provide our feedback on the questions that were asked as part of the December 3 2013 stakeholder consultation on regulation development for the Act to regulate the selling and marketing of tanning services and ultraviolet light treatments for tanning.

Protective eyewear requirements

Although we support any measures that would protect the health and safety of adult clients using tanning services, our members have no specific expertise on what standards should be adopted for protective eyewear. We are satisfied that the Health Canada standards are acceptable, as they are used in other jurisdictions where these standards are already regulated. Our understanding is that these are based on criteria established by the United States Food and Drug Administration.

Recognizing that our members will be responsible for enforcing Section 6 of the Act, the development of enforcement regulations will need to account for certain impracticalities of verifying that all eyewear being used in tanning facilities meets these standards. There are many different types, and clients most often bring their own. It is unlikely that inspectors will have the means to measure the spectral transmittance of each, and there is no acceptable way to verify that clients are wearing them.

We therefore recommend that the regulations include language that will make it easier for public health inspectors to hold operators accountable for compliance with Section 6. While it may be impossible to verify that clients are using compliant protective eyewear, inspectors can verify the compliance of products sold in the facility. It was suggested during the consultations that the presence of a US Food and Drug Administration number on a package of eyewear for sale would be sufficient, as it indicates that the eyewear meets the accepted standards.

In addition, inspectors could verify that that prescribed signage includes a clear statement of the requirement to wear compliant eyewear at all times (please see elements of required signage below); and that each establishment has written staff training material that includes information on how to verify that eyewear meets the prescribed standards and an obligation to inform clients of the importance of wearing compliant protective eyewear.

Advertising/Marketing tanning services to youth

We certainly appreciate the intent behind this, and alPHa is already supportive of a complete ban on commercial marketing of any kind to children under the age of 13. In other discussions that we have had about how to implement age-specific marketing restrictions, formulating specific definitions of marketing and what constitutes marketing directed at young people has been exceedingly difficult. Although we believe that efforts to work around these difficulties will be worthwhile in some circumstances (e.g. the Government's proposed restriction on marketing unhealthy food and beverage to children), such specificity may not be immediately necessary for the purposes of this Act.

During the consultation on December 3, it was suggested that Section 4 of the Act may be sufficient on its own. We believe that the statutory prohibition may be enough to deal with situations that can clearly be identified as direct marketing to youth (e.g. promotion in schools, advertising in yearbooks or other publications clearly aimed at young people). Situations that are less clear may be dealt with via legal proceedings (e.g. charges that result in voluntary cessation of marketing activities that in the opinion of the inspector are in contravention of the Act, or challenges that result in court interpretations that can begin to set precedents).

Given that the Act prohibits youth under 18 years of age from using tanning services, we would not expect the providers of these services to seriously target a clientele that they are not allowed to serve.

Signage requirements

We believe that the elements of Peel Region's by-law in combination with age restriction notices analogous to those used by tobacco retailers under the Smoke Free Ontario Act would be acceptable.

A notice that persons under 18 years of age are not permitted to use tanning equipment should be posted at the entrance of the covered facility, with additional signs posted at point-of-sale, one facing the client and another facing the operator. Signs at the point of sale should include the information that clients can expect to be asked for proof of age if they appear to be under the age of 25.

Additional signs that itemize the health risks should be conspicuously posted within the facility at point-of-sale. There was general agreement during the discussion that the Peel Region sign that includes health warnings and protective measures was acceptable, with some variation on the order, to better reflect the health protection intent of the legislation. For example:

- UV exposure can be hazardous to your health and, in the long term, can contribute to premature skin aging and skin cancer
- Greater risks are associated with early and repeated exposure
- UV effects are cumulative
- Drugs and cosmetics may increase UV effects
- Overexposure to ultraviolet radiation (UV) causes skin and eye burns
- Use of protective eyewear that is compliant with Ontario Regulation XXX/13 is required.
- Follow operating instructions

While the general appearance of the Peel Region sign was seen as a good example of a sign that was most likely to be read by a client, i.e. not too wordy or technical, it is recommended that any standardized signage be developed by marketing professionals as a measure to maximize their effectiveness.

Signage should be standardized and provided by the Provincial government to tanning operators.

Having examined the signage requirements under the federal Radiation Emitting Devices Act, we do not believe that the Province should require additional signage on the devices themselves. We believe that the federally mandated warning is satisfactory.

Health Claims

This was discussed briefly as part of the section dealing with marketing and advertising to youth. We believe that this should be a separate discussion, as our position is that health claims should be regulated regardless of the age of the target audience for marketing and promotion.

As stated in our resolution (A06-3, attached), we strongly recommend that this be dealt with on its own in the eventual regulations, and that it follow the World Health Organization recommendation that claims of health benefits should not be permitted in the promotion of sunbed use.

SUMMARY OF RECOMMENDATIONS

For protective eyewear, regulations should

- Enable inspectors to verify the compliance of protective eyewear sold in the facility by confirming the presence of a US Food and Drug Administration approval number on the package.
- Prescribe signage should include a clear statement of the requirement to wear compliant eyewear at all times (please see elements of required signage below).
- Prescribe written staff training material that includes
 - Information on how to verify that client- and facility-supplied eyewear meets the prescribed standards
 - A statement of obligation to inform clients of the importance of wearing compliant protective eyewear.

For marketing restrictions, regulations should

- Be flexible enough to allow judicious and equitable application of Section 4 of the Act. We recommend that if regulations prescribe restrictions on marketing, they should initially be limited to direct marketing (e.g. in school yearbooks & publications aimed at youth; where the target audience is clearly youth).

For signage requirements, regulations should

- Require notices that persons under 18 years of age are not permitted to use tanning equipment
 - at the entrance of the covered facility
 - at point-of-sale, one facing the client and another facing the operator
- Require a notice at point of sale that clients can expect to be asked for proof of age if they appear to be under the age of 25
- Require a conspicuous health and safety notice at point of sale that includes the following:
 - *UV exposure can be hazardous to your health and, in the long term, can contribute to premature skin aging and skin cancer*
 - *Greater risks are associated with early and repeated exposure*

- *UV effects are cumulative*
- *Drugs and cosmetics may increase UV effects*
- *Overexposure to ultraviolet radiation (UV) causes skin and eye burns*
- *Use of protective eyewear that is compliant with Ontario Regulation XXX/13 is required.*
- *Follow operating instructions*

Other

- Regulations should prohibit claims of health benefits of any kind in any promotional / marketing / advertising materials related to the use of tanning beds.
- Short-form wording must be developed for the regulatory requirements to allow inspectors to issue offence notices under Part 1 of the Provincial Offences Act and not require that every contravention be dealt with via the far more resource intensive court proceedings under Part III.
- Prescribed signage should initially be developed and provided to operators at no charge by the Ministry of Health and Long-Term Care.

alPHa Resolution A06-3

TITLE: Health-Based Regulation of the Management and Use of Artificial Tanning Equipment

SPONSOR: alPHa Board of Directors.

WHEREAS The World Health Organization's 2003 report, *Artificial Tanning Sunbeds: Risks and Guidance* concludes that Ultraviolet (UV) light from artificial tanning equipment is a probable human carcinogen linked to eye damage and increased risk of developing melanoma and other skin cancers; and

WHEREAS at present, the only regulation of tanning salons in Ontario is through the Federal government's Radiation Emitting Devices Act, which is limited in scope to the manufacturing, importing and sale/resale of artificial tanning equipment; and

WHEREAS tanning salon operators are known to make marketing claims that include the suggestion that artificial tanning is a "safe" method by which to tan and meet Vitamin D requirements; and

WHEREAS skin cancer is the most common type of cancer of Ontario; and

WHEREAS no legislation in Ontario currently exists that regulates the use of such equipment based on known health risks

THEREFORE BE IT RESLOVED THAT the Government of Ontario pass and promote legislation governing the use of artificial tanning equipment based on the above-named WHO Report's *Recommendations for the Management of Sunbed Operations*, that includes

- regulation of the safety claims permitted by tanning salon owners and operators
- training requirements for operators of artificial tanning equipment
- a ban on the use of artificial tanning for those under 18, subject to the advice of a regulated health professional
- the formulation of enforceable safe operating standards for the tanning industry, including, maximum exposure times and warnings to consumers related to the use of UV-emitting tanning equipment