



PUBLIC HEALTH DIVISION
Radiation Protection Services

John A. Kitzhaber, MD, Governor

Oregon
Health
Authority

800 NE Oregon Street, Suite 640
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**STATE OF OREGON
OREGON HEALTH AUTHORITY**

Ref File: 972745

IN THE MATTER OF:

**Embellish Salon & Tanning,
Tanning Facility**

)
) FINAL ORDER
)
)
) Agency Case No. RPS 2014-T2745 FO

**Katie Almquist
1253 Siskiyou Blvd.
Ashland, OR 97520**

The Oregon Health Authority, Radiation Protection Services (RPS) is charged with protecting the health and safety of all Oregonians from unnecessary radiation exposure. It is essential that all registrants comply with Oregon Administrative Rules (OAR) relating to tanning facility operations which minimizes health risks to workers, clients, and the public.

On December 11, 2014, the Oregon Health Authority, Public Health Division, Center for Health Protection, Radiation Protection Services (RPS) issued a Notice of Violation and Proposed Imposition of Civil Penalty pursuant to Oregon Revised Statute ORS 431.950; Oregon Administrative Rules (OAR) 333-119-0020 and 333-124-0010 proposing to impose a civil penalty against Embellish Salon & Tanning in the amount of \$500 for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered Katie Almquist an opportunity for a hearing, if requested within 20 days of service of the Notice. The Notice designated the relevant portions of RPS' file on this matter, including all materials submitted by Katie Almquist, as the record for purposes of default. Katie Almquist did not request a hearing.

NOW THEREFORE, after considering the relevant portions of RPS' file relating to this matter, RPS enters the following Order.

FINDINGS OF FACT

1. Embellish Salon & Tanning consists of a tanning facility at 1253 Siskiyou Blvd., Ashland, and has a total of 4 tanning devices.
2. On October 23, 2014, Embellish Salon & Tanning was inspected by an RPS staff member. During the inspection, Embellish Salon & Tanning was found to be in violation of a number

of administrative rules governing tanning devices and facilities. The violations were cited in the inspection report form dated October 23, 2014, that is incorporated by reference.

3. Embellish Salon & Tanning or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.
4. Embellish Salon & Tanning or a member of its staff was informed that if no response was received within 30 days civil penalties would be assessed as authorized by ORS 431.950 and OAR 333-124-0010.

ULTIMATE FINDINGS OF FACT

Embellish Salon & Tanning is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. Embellish Salon & Tanning violated rules governing tanning facilities as documented in the October 23, 2014 Inspection Report which has been incorporated by reference, has not corrected such violations, and is subject to civil penalties.
2. Pursuant to ORS 431.950 and OAR 333-124-0010, a civil penalty shall be imposed against Embellish Salon & Tanning totaling \$500.
3. The civil penalties are calculated as follows for violations of OAR 333-119:

| Rule Violation | Severity Level | CP amount | Instances | Totals |
|--------------------|----------------|-----------|-----------|---------|
| 333-119-0041(6) | 4 | \$75 | x 1 | = \$75 |
| 333-119-0080(3) | 1 | \$200 | x 1 | = \$200 |
| 333-119-0110(8)(a) | 4 | \$75 | x 2 | = \$150 |
| 333-119-0130(5) | 4 | \$75 | x 1 | = \$75 |

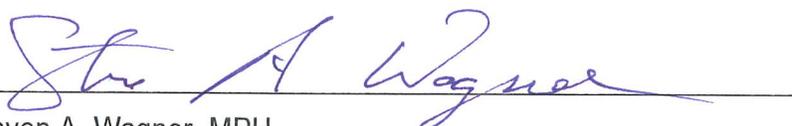
Proposed civil penalty amount = \$500

4. Failure to comply with this Order may subject Embellish Salon & Tanning to further civil penalties.
5. In addition to paying a civil penalty, you are required to provide a written corrective action within 30 days of receipt of this order, to the inspection conducted on October 23, 2014, in order to be in compliance. If you do not provide a written corrective action you will continue to be in violation and will be subject to further civil penalties and may be prohibited from operating your tanning devices.

ORDER

Embellish Salon & Tanning is ordered to pay a civil penalty in the amount of \$500.

DATED this 12 day of FEBRUARY 2015.



Steven A. Wagner, MPH
Administrator, Center for Health Protection
Oregon Health Authority

Date of Mailing: February 17, 2015

Notice: Civil Penalty amounts are established in ORS 431.950. Civil penalties are due and payable 10 days after the date of this Order. If unpaid, civil penalties may be recorded and filed with county clerks as liens against property 10 days after the expiration of the statutory appeals period and sent to the Department of Revenue or a private collection firm for further collection efforts. If you have any questions about payment or wish to make payment arrangements, please call Todd S. Carpenter, Licensing Manager at 971-673-0500 and make checks payable to: "OHA-Radiation Protection Services" and send to Radiation Protection Services, 800 NE Oregon St., Suite 640, Portland, OR 97232.

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of this order.

Copy to: Shannon O'Fallon, Senior Assistant Attorney General, Oregon Department of Justice
Todd S. Carpenter, Licensing Manager, Radiation Protection Services



Inspection Findings and Registrant Acknowledgement
 Oregon Health Authority | Public Health Division | Radiation Protection Services
 800 NE Oregon Street, Suite 640; Portland, OR 97232
 Phone: (971) 673-0490 | Fax: (971) 673-0553
 Website: www.healthoregon.org/rps

Facility Name: Embellish Salon & Tanning Facility ID#: 97 2745
 Owner Name: Katie Almqvist Date: 10/23/14

The items marked below were found to be out of compliance during your inspection. The severity levels are noted along with the repeat violation frequency (i.e. is this the first, second, or third time you have been cited for this item). The corresponding civil penalty amounts as outlined in Oregon Administrative Rules (OAR) Division 124 are also noted. If you have items out of compliance and you do not respond in writing with corrective action taken within the timeframe as outlined on page 3 of this inspection report you will be subject to civil penalty in the amount(s) noted on this Inspection Finding Report. Note: The following is not a comprehensive list of all Tanning OAR's.

Key: C = Citation, SL = Severity Level, I = Instances per Violation, R = Repeat Violation

| | C | SL | I | R |
|---|---|----|---|---|
| Registration OAR 333-119-0020: | | | | |
| (1) Tanning device(s) not properly registered prior to operation. | | 1 | | |
| (6) License not posted in public view. | | 5 | | |
| (7) State-ID sticker removed or defaced. | | 2 | | |
| (8) Failure to notify Department of registration change. | | 4 | | |
| (9) Tanning device improperly transferred to another person or facility. | | 4 | | |
| (10) Change of ownership application not completed in 30 days. | | 4 | | |
| Admin Violations OAR 333-119-0030: | | | | |
| (1) Administration responsibilities lacking. | | 4 | | |
| (2) Removal of Out-Of-Service sign. | | 1 | | |
| (5) Failure to post Inspection Findings. | | 5 | | |
| (6) Failure to post Notice to Public sign. | | 5 | | |
| Facility Violations OAR 333-119-0040: | | | | |
| (1)(a) No toilet, sink, dressing room. Unsanitary conditions. | | 3 | | |
| (1)(c) Room temperature above 100 degrees during tanning device operation. | | 3 | | |
| (1)(d) Tanning device does not meet National Electrical Code (NECA) | | 2 | | |
| (1)(e) Facility does not meet building codes. | | 2 | | |
| (2)(a) General areas/device not sanitary. Pillows or acrylics cracked or damaged. | | 3 | | |
| (2)(b) Not using an approved sanitizer. Operator not cleaning with clean towel after each use. | | 2 | | |
| (2)(c) Device or eyewear not sanitized properly by operator. | | 4 | 1 | |
| (2)(d) Sanitizer not tested initially or weekly. <i>Buy quat test strip</i> | X | 3 | | |
| (2)(e) Clean sanitary towels not provided to customers. | | 4 | | |
| (2)(f) Receptacle not provided for dirty towels. | | 3 | | |
| (2)(g) Pets or animals being allowed in facility. | | 3 | | |
| Requirements OAR 333-119-0050: | | | | |
| Written warning statement not signed or dated upon initial exposure or annually after. | | 3 | | |
| Warning Sign OAR 333-119-0060: | | | | |
| (1) Sign not posted visibly within 1 meter of each device. | | 3 | | |
| (2) Sign posted with improper sized lettering. | | 4 | | |
| Protective Eyewear (OAR 333-119-0070) | | | | |
| (1) Protective eyewear not provided to customer. | | 1 | | |
| (2) Protective eyewear does not meet requirements. | | 2 | | |
| (3) Operators not ensuring eyewear is being used. | | 2 | | |
| Training of Personnel OAR 333-119-0080: | | | | |
| (1) Operators training certificate not available. | | 2 | | |
| (2) Trained operator not present at facility. | | 1 | | |
| (3) Operator(s) not formally trained before commencing tanning operations. <i>Have Kelly take formal training, send copy of certificate</i> | X | 1 | 1 | |



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 Website: www.healthoregon.org/rps

Facility Name: Embellish Salon & Tanning Facility ID#: 97-2745
 Owner Name: Katle Almqvist Date: 10/23/14

| | C | SI | I | R |
|---|---|----|---|---|
| Protection of Consumers OAR 333-119-0090: | | | | |
| (1) More than one person in an exposure area. | | 1 | | |
| (2) Minor permitted to tan without parental consent (not completed in front of operator). | | 1 | | |
| (3) Parental consent sign not posted in public view. | | 4 | | |
| (4) Consumer not instructed on use of device(s). | | 2 | | |
| (5) Infant or minor in exposure area. | | 1 | | |
| (6) Operator not limiting exposure time by using the manufacturer exposure schedule. | | 1 | | |
| (7) Emergency contacts not posted in public view. | | 4 | | |
| (8) Photosensitizing medication list not available. | | 2 | | |
| (9) Tanning device(s) operated only by a token timer. | | 1 | | |

| | C | SI | I | R |
|--|---|----|---|---|
| Equipment OAR 333-119-0100: | | | | |
| (1) Device does not meet 21 CFR 1040.20 | | 1 | | |
| (2) No filter plate on facial lamp (UVC being emitted) | | 1 | | |
| (3) Tanning lamps without acrylic cover. | | 3 | | |
| (4) Stand up unit(s) not equipped with handrail | | 4 | | |
| (4)(a) Stand up unit(s) not adequately braced. | | 4 | | |
| (4)(b) Stand up unit(s) don't have outward opening doors. | | 4 | | |
| (5) Exposure position not labeled. | | 4 | | |
| (6) No warning label for eye protection. | | 2 | | |
| (7) No means to summon help from exposure position. | | 3 | | |
| (8) Unauthorized service person used. | | 4 | | |
| (9) Non OEM parts used in service. | | 1 | | |
| (10) Unauthorized tanning lamps installed. | | 4 | | |
| (11) Lamp equivalency certification missing. | | 3 | | |
| (12) Used lamps improperly disposed. | | 3 | | |
| (13) No protective wall, screen, or curtain around device. | | 1 | | |
| (14) Operator allowing customer to exceed manufacturer's recommended exposure time. | | 2 | | |
| (15) Exposure timer not in compliance with 21 CFR, Part 1040, Section 1040.20(c)(2). | | 2 | | |
| (15)(a) The maximum time exceeds manufacturer recommendations. | | 2 | | |
| (15)(b) Customer operating timer or no remote timer available. | | 1 | | |
| (15)(c) No emergency shut off mechanism on tanning device. | | 1 | | |
| (16) Timer accuracy not within +/- 10% | | 2 | | |
| (17) Timer not checked annually for accuracy. | | 3 | | |
| (18) Device not being maintained to manufacturer minimum requirements. | | 4 | | |
| (19) No hour meter on tanning device. | | 4 | | |

| | C | SI | I | R |
|--|---|----|---|---|
| Records & Reports OAR 333-119-0110: | | | | |
| (1) Missing consumer records (total number of visits, dates & duration of tanning exposures). | | 4 | | |
| (2) Missing signatures that acknowledge the potential risks of UV exposure and photosensitizing medications. | | 4 | | |
| (3) Missing record of parental consent signature. | | 2 | | |
| (4) Facility not reporting injuries within 5 days. | | 1 | | |
| (5) No record of annual timer tests for each device. | | 3 | | |
| (7)(a) No operator's manual available. <i>Send 1st page of manual for each unit</i> | | 4 | 2 | |
| (7)(b) No exposure schedule available. | | 3 | | |
| (7)(c) Missing records of maintenance. | | 3 | | |
| (8) Missing records of receipt, transfer, or repair. | | 4 | | |
| (9) Records not available for inspector review. | | 3 | | |

| | C | SI | I | R |
|--|---|----|---|---|
| Advertising OAR 333-119-0120: | | | | |
| (1) Improper use of promotions (safe, safe tanning). | | 3 | | |
| (3) Use of unlimited to promote a tanning package. | | 3 | | |

| | C | SI | I | R |
|--|---|----|---|---|
| Exemptions OAR 333-119-0130: | | | | |
| (5) Device designated as storage not properly disconnected from power with lamps removed. <i>See p 3</i> | X | 4 | 1 | |



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Facility Name: Embellish Salon & Tanning Facility ID#: 972745
 Owner Name: Katie M. Almqvist Date: 10/23/14

As outlined in OAR 333-124-0010(8) Civil Penalty Table for non-payment of registration fees.

Example per device:

| Days Past Due | Amnt per day | 1 device \$100: | Total Owed |
|---------------|--------------------------------|------------------------|----------------------------------|
| 30 | 3% of total registration fees | \$3 x 30 days = \$90 | + \$100 registration fee = \$190 |
| 60 | 5% of total registration fees | \$5 x 30 days = \$150 | + \$100 registration fee = \$250 |
| 90 | 10% of total registration fees | \$10 x 30 days = \$300 | + \$100 registration fee = \$400 |
| 120 | 10% of total registration fees | \$10 x 30 days = \$300 | + \$100 registration fee = \$400 |

As outlined in OAR 333-124 Civil Penalty Table for non-compliant items found during an inspection.

| Severity Level | 1st time | 2nd time | 3rd time |
|----------------|----------|----------|----------|
| 1 | \$200 | \$350 | \$500 |
| 2 | \$150 | \$200 | \$250 |
| 3 | \$100 | \$150 | \$200 |
| 4 | \$75 | \$100 | \$125 |
| 5 | \$50 | \$75 | \$100 |

Registrant's Acknowledgement: The Oregon Health Authority, Office of Environmental Public Health inspector has explained the findings, and I understand, the items identified in this report.

REGISTRATION: I understand that I am to **COMPLETE THE "REGISTRATION OF TANNING FACILITY" APPLICATION** and **SUBMIT THE APPROPRIATE REGISTRATION FEE** within **TEN (10)** days of this inspection.

TRAINING: I understand that I am to **RESPOND IN WRITING WITH DOCUMENTATION OF COMPLETION OF TRAINING** demonstrating that all tanning operators have completed formal training within **TEN (10)** days of this inspection.

ALL OTHER NON-COMPLIANCES: I understand that I am to **RESPOND IN WRITING** to the inspector addressing each item of noncompliance within **THIRTY (30)** days of this inspection.

* I will also include any copies of **receipts**, service reports, or documentation related to the items identified as deemed appropriate.

* I understand that if I do not respond in writing within the time frame outlined with corrective action taken, I may be subject to civil penalties as outlined in OAR 333-119-0124.

* I understand that this Inspection Findings Report shall be posted in public view until all non-compliances have been corrected.

* Responses may be mailed, faxed, or emailed directly to the inspector.

Comment(s): Make sure new tanners start out at exposure level for their skin type

- ① Remove lamp & unplug unit in Room 4 or unit is considered "active"
- ② Purchase Quat test strip & test sanitizer when made
- ③ Send cover page of manual
- ④ Have Kelley do operator training

Print Name & Title: Milagra Gomez Date: 10/23/14
 Signature: [Signature]
 Inspector Signature: [Signature]