



PUBLIC HEALTH DIVISION
Radiation Protection Services

John A. Kitzhaber, MD, Governor

Oregon
Health
Authority

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**STATE OF OREGON
OREGON HEALTH AUTHORITY**

Ref File: 972630

IN THE MATTER OF:

**Anytime Fitness Klamath Falls,
Tanning Facility**

)
) FINAL ORDER
)
)
) Agency Case No. RPS 2014-T2630 FO

**Brian Sherrill
Red Rain LLC
P.O. Box X
Klamath Falls, OR 97601**

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 19, 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 Anytime Fitness Klamath Falls in the amount of \$350 for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered Brian Sherrill 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 Brian Sherrill, as the record for purposes of default. Brian Sherrill 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. Anytime Fitness Klamath Falls consists of a tanning facility at 1831 Avalon St., Klamath Falls, and has a total of 1 tanning device(s).

2. On October 22, 2014, Anytime Fitness Klamath Falls was inspected by an RPS staff member. During the inspection, Anytime Fitness Klamath Falls 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 22, 2014, that is incorporated by reference.
3. Anytime Fitness Klamath Falls or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.
4. Anytime Fitness Klamath Falls 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

Anytime Fitness Klamath Falls is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. Anytime Fitness Klamath Falls violated rules governing tanning facilities as documented in the October 22, 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 Anytime Fitness Klamath Falls totaling \$350.
3. The civil penalties are calculated as follows for violations of OAR 333-119:

Rule Violation	Severity Level	CP amount	Instances	Totals
333-119-0100(17)	2	\$200	x 1	= \$200
333-119-0100(15)(c)	2	\$150	x 1	= \$150

Proposed civil penalty amount = **\$350**

4. Failure to comply with this Order may subject Anytime Fitness Klamath Falls to further civil penalties.

ORDER

Anytime Fitness Klamath Falls is ordered to pay a civil penalty in the amount of **\$350**.

DATED this 27 day of JANUARY 2015.



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

Date of Mailing: January 30, 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