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**STATE OF OREGON
OREGON HEALTH AUTHORITY**

Ref File: 971536

IN THE MATTER OF:)
Ultimate Tan & Spa-Tigard,) FINAL ORDER
Tanning Facility)
) Agency Case No. RPS 2015-T1536 FO

**Norma Barber Accounting & Tax Services, LLC
Debra Crawford
15690 SW Oregon Street
Sherwood, OR 97140**

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 August 14, 2015, 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 Ultimate Tan & Spa-Tigard in the amount of \$650 for violations of Oregon Administrative Rules (OARs) listed in the Notice. The Notice offered Debra Crawford 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 Debra Crawford, as the record for purposes of default. Debra Crawford did not request a hearing.

Note: Notice to Active Duty Service members. Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil/content/locator.php>.

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

FINDINGS OF FACT

1. Ultimate Tan & Spa-Tigard consists of a tanning facility at 14250-1 Barrows Road, Suite A, Tigard, and has a total of 5 tanning devices.
2. On November 26, 2014, Ultimate Tan & Spa-Tigard was inspected by an RPS staff member. During the inspection, Ultimate Tan & Spa-Tigard 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 November 26, 2014, that is incorporated by reference.
3. Ultimate Tan & Spa-Tigard or a member of its staff was instructed to respond in writing within 30 days of the inspection with corrective action.
4. Ultimate Tan & Spa-Tigard 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

Ultimate Tan & Spa-Tigard is operating as a tanning facility in violation of ORS 431.940 and OAR 333, Divisions 119 and 124.

CONCLUSION OF LAW

1. Ultimate Tan & Spa-Tigard violated rules governing tanning facilities as documented in the November 26, 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 Ultimate Tan & Spa-Tigard totaling \$650.
3. The civil penalties are calculated as follows for violations of OAR 333-119:

Rule Violation	Severity Level	CP amount	Instances	Totals
333-119-0090(6)	1	\$350	x 1	= \$350
333-119-0100(6)	1	\$200	x 1	= \$200
333-119-0100(7)	4	\$100	x 1	= \$100

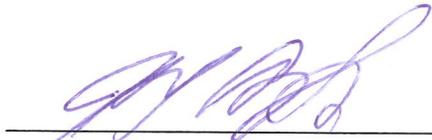
Proposed civil penalty amount = **\$650**

4. Failure to comply with this Order may subject Ultimate Tan & Spa-Tigard 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 November 26, 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

Ultimate Tan & Spa-Tigard is ordered to pay a civil penalty in the amount of \$650.

DATED this 29th day of October 2015.



Jere High, ND
Interim Administrator, Center for Health Protection
Oregon Health Authority

Date of Mailing: November 5, 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: Ultimate Tan - Espa Tigard Facility ID#: 97 1536
 Owner Name: Debra Crawford Date: 11/26/14

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

Registration OAR 333-119-0020:	C	SL	I	R
(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:	C	SL	I	R
(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:	C	SL	I	R
(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 (NFPA)		2		
(1)(e) Facility does not meet building codes.		2		
(2)(a) General areas/device not sanitary. Pillows or acrylics cracked or damaged.		2		
(2)(b) Not using an approved sanitizer. Operator not cleaning with clean towel after each use.		3		
(2)(c) Device or eyewear not sanitized properly by operator.		2		
(2)(d) Sanitizer not tested initially or weekly.		4		
(2)(e) Clean sanitary towels not provided to customers.		3		
(2)(f) Receptacle not provided for dirty towels.		4		
(2)(g) Pets or animals being allowed in facility.		3		

Requirements OAR 333-119-0050:	C	SL	I	R
Written warning statement not signed or dated upon initial exposure or annually after.		3		

Warning Sign OAR 333-119-0060:	C	SL	I	R
(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)	C	SL	I	R
(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:	C	SL	I	R
(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.		1		



Tanning Inspection Findings & Registrant Acknowledgement
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 800 NE Oregon Street, Suite 640; Portland, OR 97232
 Phone: (971) 673-0490 | Fax: (971) 673-0553
 Website: www.healthoregon.org/rps

Facility Name: Ultimate Tan Spa Tigard Facility ID#: 97 1536
 Owner Name: Debra Crowford Date: 11/26/14

Protection of Consumers OAR 333-119-0090:	C	SL	I	R
(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 (skin typing). <i>J&P's</i>	X	1		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 or mechanical timer.		1		

Equipment OAR 333-119-0100:	C	SL	I	R
(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.		4		
(10) Unauthorized tanning lamps installed. <i>TCO, Red lamp in UV bed</i>	X	1	1	1
(11) Lamp equivalency certification missing. <i>Room 2</i>	X	4		1
(12) Used lamps improperly disposed.		3		
(13) No protective wall, screen, or curtain around device.		3		
(14) Operator allowing customer to exceed manufacturer's recommended exposure time.		1		
(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) Tanning facility allowing customers to exceed the 20 minute maximum exposure.		1		
(15)(c) Customer operating timer or no remote timer available.		2		
(15)(d) No emergency shut-off mechanism to allow termination of UV exposure by the customer.		1		
(16) Timer accuracy not within +/- 10%		1		
(17) Timer not checked annually for accuracy.	X	2	2	Fixed
(18) Device not being maintained to manufacturer minimum requirements.		3		
(19) No hour meter on tanning device.		4		

Records & Reports OAR 333-119-0110:	C	SL	I	R
(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.		4		
(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		

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

Exemptions OAR 333-119-0130:	C	SL	I	R
(5) Device designated as storage not properly disconnected from power with lamps removed.		4		



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Facility Name: Ultimate Tan + Spa Tigard Facility ID#: 97 1536
 Owner Name: Debra Crawford Date: 11/26/14

As outlined in OAR 333.124.0010(8) Civil Penalty Table for non-payment of registration fees.

Example per device:

Days Past Due	Amount 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 = \$340
90	10% of total registration fees	\$10 x 30 days = \$300	+ \$100 registration fee = \$640
120	10% of total registration fees	\$10 x 30 days = \$300	+ \$100 registration fee = \$940

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	\$850	\$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 to the inspector within the time frame outlined with corrective action taken, I may be subject to civil penalties as outlined in OAR Division 124.

* 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 all clients have a skin type # and are following
manufacturer's exposure schedule

gpc

Print Name & Title: Leslie Grover - manager Date: 11/26/14
 Signature: *[Signature]*
 Inspector Signature: *[Signature]*