

Approved 3-4-92
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at
Chairperson

1:30 / 4/4 p.m. on February 19, 1992 in room 423-S of the Capitol.

All members were present except:

Rep. Wagle, excused

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chip Wheelen, Kansas Medical Society
Dr. Michael Giessel, M. D.
Steve Paige, Department of Health/Environment, Bureau of Environmental
Health Services/Division of Health
Eileen Hassett, Executive Director, Ks. State Board of Cosmetology
Louis Petrakos, Tanning Salon owner
Kahrs/Nelson/Fanning, Attorney's at Law (Written testimony only)
B. J. Werne, Sunkissed Tanning, Wichita, Kansas
Mike Hurst, V. President, Sunfit Tan & Co., Lenexa, Kansas

Chair called meeting to order, drawing attention to Committee minutes for February 5th. Members had an opportunity to read them over carefully, then Chair noted motions were in order.

Rep. Bishop moved the minutes of February 5th, be approved as presented, seconded by Rep. Wiard. No discussion. Motion carried.

INTRODUCTION OF BILLS.

Rep. Amos offered a draft of legislation that would require wearing of motor cycle helmets, and he made this into the form of a motion to introduce this legislation as a Committee Bill. Motion seconded by Rep. Bishop. No discussion. Motion carried.

Chair requested a staff briefing on HB 2796.

BRIEFING ON HB 2796.

Mr. Furse gave a comprehensive explanation of HB 2796. There were no questions following the bill briefing.

Chip Wheelen, Ks. Medical Society offered hand-out (Attachment No.1), and explained this legislation was requested by the Kansas Medical Society, because of increasing numbers of patients who show symptoms of sunburn caused by the use of tanning devices. Many facility operators are responsible, some are not, and it is the belief of the Medical Society, that regulations should be legislated. He outlined proposed language, noting the consumers would be informed of risks/hazards, given information that should be provided before using tanning devices; calls for the posting of signs which would serve as reminders of possible dangers involved. Cost of regulating these facilities would be financed entirely by fees collected from those who must obtain a license to operate a tanning facility. He gave background on the choice of the licensing authority and explained that it is now changed on the recommendation that the Department of Health/Environment be the licensing/inspection authority. He drew attention to a balloon copy of HB 2796 in attachment No. 1 that sets out proposed changes from initial language drafted.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 /a.m./p.m. on February 19, 1992
HEARINGS CONTINUED ON HB 2796.

Mr. Wheelen introduced Dr. Michael Giessel, a physician in the private practice of Dermatology.

Dr. Giessel gave a comprehensive background on ultra-violet rays, their effect on human skin; different types of ultra-violet rays; what the differences are in the natural sun and the rays in a tanning salon situation. He drew attention to adverse conditions that can happen if you are on several types of medications and are exposed to these ultra-violet rays; explained skin cancer risks. He and Chip Wheelen both answered questions, i.e., they request regulation by this industry for the safety of the consumer; age 18 was suggested since this is the age used in the purchase of cigarettes; there are instances where tanning rays have therapeutic value and instances were cited. It was noted there is a list of medications available to physicians that consumers should be made aware of, if they plan to use tanning facilities or devices. He explained there are different results in different patients from medications, i.e., the blood level; what the strength of the medication is; how long it takes some medications to leave the system.

Steve Paige, Director/Bureau of Environmental Health Services, Department of Health/Environment offered hand-out (Attachment No.2). He stated support of this program, noting the Department of Health/Environment has proposed program initiatives of this type in past years that have not received budgetary support. There currently is statutory authority for the Secretary to register/control radiation producing devices, however, nothing currently is being done in this regard. If HB 2796 is enacted, the Department of Health/Environment recommends it be included in the development of regulations and the training of inspectors. He answered questions, i.e., if the Department is given authorization as the regulating agency, they would like to determine the fiscal impact, but he stated, this task would not be beyond the scope of their Agency to implement.

Eileen Hassett, Executive Director of State Board of Cosmetology gave hand-out (Attachment No.3). She stated their Board is not in opposition to HB 2796, however, if they are to be the regulating agency, they would require funding to administer requirements. They have concerns with a gray area, Section 1 (5) "any facility, whether independent of part of a salon". She stated this language should be clarified. She answered questions i.e., concerns in regard to the safety of the inspector in respect to radiation, this factor has yet to be made clear to their Board; funding would be needed to pay for inspectors and administrative tasks. They would have no problem with being the regulating agency if they are appointed to that task, but would need additional funding. They also would have no opposition to the Department of Health/Environment as the regulating agency either.

At this point, Chairperson Sader drew attention to fiscal note on HB 2796, and noted it will be made available to members.

Louis Petrakos, member of SAE, (Suntanning Association for Education) stated support for HB 2796, but has opposition to certain provisions. (See Attachment No. 4). He noted his testimony represents 12 other indoor tanning salon owners in Johnson County. They are concerned they were not contacted by Committee and heard about this legislation just by chance. It appears that an attempt is being made to run this legislation through quickly and silently so as to avoid opposition. He stated as a resident, tax-payer and business proprietor he would emphasize the importance of the Committee to slow down the progress of this legislation so that it can be created logically and in a manner all can live with and say confidently it was a team effort and not done by two adversaries.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 a.m./p.m. on February 19, 1992

HEARINGS CONTINUED ON HB 2796.

Mr. Petrakos drew attention to hand-out provided for Committee, (Attachment No. 5) from attorneys, Kaahrs, Nelson, Fanning, Hite, and Kellog, Wichita, Kansas. He then answered questions.

At this time, Chair asked Mr. Petrakos if he was under the impression that the state legislature has the responsibility to contact all persons that will be impacted by new legislation when hearings are to be held. He stated, they are contacted when taxes are due, so he thinks it only fair to be contacted when their business would be impacted by legislation being considered. Chairperson Sader gave a detailed explanation of how citizens of Kansas can obtain free of charge, a calendar of events on hearings, or by paid subscription, the calendar Committee hearings scheduled for all legislation being addressed by Committees. She noted it might be beneficial if a better understanding of the legislative process could be communicated to the citizenry, and that the citizenry assume some responsibility as well.

B. J. Werne, Salon owner, (Attachment No. 6) began his comments in answer to questions posed to Dr. Giessel. He stated he and other salons represented by attorneys Kahrs/Nelson/Fanning/Hite/Kellogg, endorse recommendations expressed in the letter Attachment No. 5), however there are a few exceptions. They agree there should be some regulation in the tanning industry. Most salon owners are responsible, however, some are not. As an educator and salon owner, he felt a responsibility to clarify some information given by Dr. Giessel in respect to ultra-violet rays. He gave a detailed explanation. He then offered photos of a specific site where a 3 foot warning sign would be overpowering, and noted current FDA mandates that tanning salons display a warning label on the tanning bed. He drew attention to the latter part of his hand-out noting the list of all medications that are light sensitive and he could provide that list to Committee if they wish. He noted the \$250 annual fee for salon was adequate.

Mike Hurst, operator of a tanning salon (Attachment No. 7), noted he also is a current member of SAE. He answered questions earlier asked. Their primary goal is to have a fair/workable set of rules for tanning salons to operate under. They encourage this type of regulation as it will help those responsible owners. He displayed a manual that is used for training by the SAE member salons. He drew attention to part of his hand-out, i.e., client waiver/parental consent form that is used by his salon and a release form/informational brochure. He made recommendations, i.e., eliminate B type machines that utilize pure UVB ultra-violet light since they overexpose; each facility must have a minimum of 3 beds; regulation of the sale of tanning devices; tanning lamp strength should not exceed a UVB ratio of 4.8%; eyewear warning signs must be clearly posted; timing controls must be controlled by salon employees only; use of sanitized linens provided by salon should be mandatory. He welcomed regulation of the tanning industry. He answered questions.

Rep. Amos commended those in the industry that are responsible business owners, and for the well prepared and well presented testimony that was given this date.

Chair adjourned meeting at 3:13 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-19-92

NAME	ORGANIZATION	ADDRESS
Mike Giessel	Ks. Med. Soc.	823 Mulvan Topeka
Chip Wheelen	Ks Med. Soc.	623 W. 10 th Topeka
Jonnie Duryonic	American Cancer Society	1315 SW Arrowhead, Topeka
DON RITTER	SUN INN SALONS INC.	806 N. PROSPECT AVE. Overland
Louis G. Petrakos	European TANS, INC.	11422 W. 112 th Terr Paek
Michael A. HVEST	Sunfit TAN & CO	12102 W 87 th St Keneva KS 66215
Ben + Helen Culver	JAAA	4615 S.W. 8 th Topeka 66606
Dorcas Welch	Seniors Citizen	1251 S. Topeka Blvd 66612
Marie Allen	" "	" " " "
Rosemary Jay	Inspector State Bd. of Cosmetology	Hays, Ks.
Ra Fiere	(Inspector) State Bd of Cosmetology	Wichita, Ks
Nancy Peady	(Inspector) State Bd of Cosmetology	Stilwell, Ks.
Kyle Britton	(Inspector) State Bd of Cosmetology	Manate, Ks
Julia George	board member 2nd Dist. State Board of Cosmetology	Topeka, Ks
Margaret Talley	Kans. for Improvemg N.H	Lawrence Ks.
Frances L. Proider	Kansas E.N.H	Lawrence
Alice L. Hilligan	K.N.H	Emporia
Beth J Lynn	K.T.N.H	Emporia
B.J. Werne	SunKissed Tanning	Wichita 170 ^N Rock Rd
Bob Heers	ARC / Ks	Topeka
Eileen M. Hassett ex. dir.	Bd of Cosmetology	Topeka
Kathryn E. LeMosy	Jayhawk Area Agency on Aging	Topeka
D. Arkzick	ICS Dental Assn	Topeka
Kathy Duggett	St Bd of Cosmetology	Topeka
Marilyn Bradt	KI.N.H	Lawrence
Bill Cutler	Ks Dept on Aging	"
Stephen Payne	KDMK	Topeka

2796



KANSAS MEDICAL SOCIETY

623 W. 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

February 19, 1992

TO: House Public Health and Welfare Committee
FROM: Kansas Medical Society *Christa Guler*
SUBJECT: House Bill 2796; Regulation of Tanning Facilities

House Bill 2796 was introduced at the request of the Kansas Medical Society because of increasing concerns among our members attributable to the numbers of patients who present with symptoms of sunburn that are caused by the use of tanning devices. Although many facility operators are responsible in the manner that they allow their customers to use tanning devices, there are others who fail to inform customers of the inherent risks of using such equipment. It is for this reason that the Kansas Medical Society has adopted a policy position calling for the regulation of facilities which offer the use of tanning devices to their customers.

The bill is not designed to require the inspection and calibration of tanning devices which produce ultraviolet radiation. It is not required to govern the way that operators of tanning facilities run their business. It ^{is} designed to inform consumers of the risks and hazards of using tanning devices. The bill spells out the information that must be provided to customers before they may be allowed to use the tanning devices. The bill also calls for the posting of signs at strategic locations which would serve as reminders of the dangers involved when tanning devices are used.

The cost of regulating tanning facilities would be financed entirely by fees collected from those who obtain a license to operate a tanning facility. We chose to delegate this regulatory responsibility to the State Board of Cosmetology for a very simple reason--many of the tanning facilities are located within a beauty salon operated by a person licensed to practice cosmetology. It seems abundantly clear that certain economies could be achieved by consolidating the inspection functions. The tasks of inspecting a tanning facility outlined in HB 2796 would require that the inspector be capable of reading the English language; operating a second-hand or a stop watch to determine the reasonable accuracy of timers; and reading a simple thermometer to determine whether the inside of a tanning booth exceeds 100° Fahrenheit. This activity would not require any advanced training or special skills.

Apparently, the State Board of Cosmetology has decided that the responsibilities set out in HB 2796 would jeopardize its other functions. In view of the reluctance of the Board of Cosmetology, we have attached to our statement a copy of balloon amendments which would delegate the responsibilities to the

*PHW
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Attn #1
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TO: House Public Health and Welfare Committee

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Secretary of Health and Environment, rather than the Board of Cosmetology. It makes no difference to the Kansas Medical Society which agency of state government administers the provisions of HB 2796. The important point to be made is that the job needs to be done in order to protect the public health.

Thank you for considering our position. We respectfully request that you recommend HB 2796 for passage.

JH/CO
2-19-92
Attn # 1.5
292-5

HOUSE BILL No. 2796

By Committee on Public Health and Welfare

1-28

PN410
2-19-92
Ann # 1-071 3-5

8 AN ACT concerning tanning facilities; requiring licenses for operation
9 thereof; providing for administration and inspection by the state
10 board of cosmetology; prohibiting certain acts and providing pen-
11 alties for violations.
12

secretary of health and environment

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) As used in this act:

15 (1) "Authorized agent" means an employee of the state board of
16 cosmetology designated by the board to enforce this act.

department of health and environment or a person
authorized pursuant to a contract with the secretary
of health and environment who is

17 ~~(2) "Board" means the state board of cosmetology.~~

secretary

18 ~~(3) "Phototherapy device" means equipment that emits ultraviolet
19 radiation that is used in the treatment of disease or other medical
20 use.~~

(2)

21 (4) "Tanning device" means equipment that emits electromag-
22 netic radiation with wavelengths in the air that is used for tanning
23 of human skin and includes any accompanying items incidental to
24 operation of the tanning device.

(3) "Secretary" means the secretary of health and
environment

25 (5) "Tanning facility" means any facility, whether independent or
26 part of a salon, health spa or any other facility, which provides access
27 to tanning devices.

28 (b) This act does not apply to use of a phototherapy device by
29 or under supervision of a person licensed to practice medicine and
30 surgery.

31 Sec. 2. (a) A tanning facility shall give each customer a written
32 statement warning that:

33 (1) Failure to use the eye protection provided to the customer
34 by the tanning facility may result in damage to the eyes;

35 (2) overexposure to ultraviolet radiation causes burns;

36 (3) repeated exposure to ultraviolet radiation may result in pre-
37 mature aging of the skin and skin cancer;

38 (4) abnormal skin sensitivity or burning may be caused by re-
39 actions of ultraviolet radiation to certain: (A) Foods; (B) cosmetics;
40 or (C) medications, including: (i) Tranquilizers; (ii) diuretics; (iii)
41 antibiotics; (iv) high blood pressure medicines; or (v) birth control
42 pills; and

(5) any person taking a prescription or over-the-counter drug

Approved
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1 IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT
2 TAN FROM USE OF THIS DEVICE

3 Sec. 4. A tanning facility shall not claim or distribute promotional
4 materials that claim that using a tanning device is safe or free from
5 risk.

6 Sec. 5. A tanning facility shall not allow any person less than 18
7 years of age to use a tanning device.

8 Sec. 6. (a) A tanning facility shall have an operator present during
9 operating hours. The operator must be sufficiently knowledgeable in
10 the correct operation of the tanning devices used at the facility that
11 the operator may inform and assist each user in the proper use of
12 the tanning devices.

13 (b) Before each use of a tanning device, the operator shall provide
14 the customer with protective eyewear that protects the eyes from
15 ultraviolet radiation and allows adequate vision to maintain balance.
16 The operator may not allow a person to use a tanning device if that
17 person does not use the protective eyewear. The operator shall also
18 show each customer how to use suitable physical aids, such as hand-
19 rails and markings on the floor, to maintain proper exposure distance
20 as recommended by the manufacturer of the tanning device.

21 (c) The tanning facility shall use a timer with an accuracy of at
22 least plus or minus 10% of any selected time interval. The facility
23 shall limit the exposure time of a user on a tanning device to the
24 maximum exposure time recommended by the manufacturer. The
25 facility shall control the interior temperature of a tanning device so
26 that it may not exceed 100 degrees Fahrenheit.

27 Sec. 7. (a) The ~~board~~ may adopt rules and regulations to imple-
28 ment this act.

29 (b) An authorized agent shall have access at all reasonable times
30 to any tanning facility to inspect the facility to determine compliance
31 with this act.

32 (c) If an authorized agent finds that a person has violated, or is
33 violating or threatening to violate this act and that the violation or
34 threat of violation creates an immediate threat to the health and
35 safety of the public, the authorized agent may petition the district
36 court for a temporary restraining order to restrain the violation or
37 threat of violation.

38 (d) If a person has violated, or is violating or threatening to violate
39 this act, the ~~board~~, after a hearing in accordance with the admin-
40 istrative procedure act, may suspend the license of a tanning facility
41 until such time that the tanning facility can demonstrate to the ~~board~~
42 that it has corrected deficiencies and is in compliance with this act
43 and rules and regulations adopted pursuant to this act.

secretary

F. Howard
2-19-92
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5-5

1 (e) On application for injunctive relief and a finding that a person
2 is violating or threatening to violate this act, the district court shall
3 grant any injunctive relief warranted by the facts.

4 Sec. 8. (a) On and after January 1, 1993, a person may not
5 operate a tanning facility without a valid license issued by the board.

6 (b) The license shall be displayed in a conspicuous place in the
7 tanning facility.

8 (c) On application, on forms provided by the board, and on re-
9 ceipt of the appropriate fee, a license shall be renewed by the board.

10 (d) The board may adopt a system under which licenses expire
11 on various dates during the year. As part of this system the annual
12 renewal fee may be prorated on a monthly basis to reflect the actual
13 number of months the license is valid.

14 (e) The board may revoke, cancel, suspend or place on probation
15 a license to operate a tanning facility for any of the following reasons:

16 (1) A failure to pay a license fee or an annual renewal fee for a
17 license;

18 (2) the applicant obtained or attempted to obtain a license by
19 fraud or deception;

20 (3) a violation of any of the provisions of this act; or

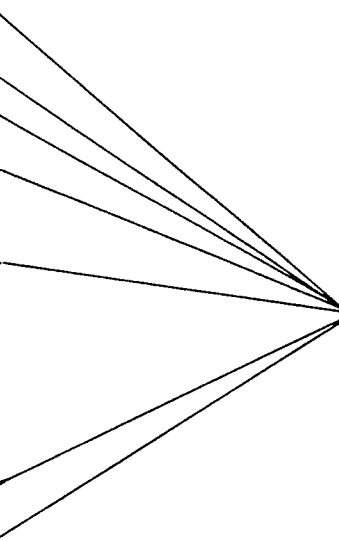
21 (4) a violation of a regulation of the board adopted under this
22 act.

23 (f) The board shall establish appropriate licensure and renewal
24 fees by adoption of rules and regulations.

25 Sec. 9. Any person who operates an unlicensed tanning facility
26 in this state or knowingly violates this act or any rules and regulations
27 adopted under this act shall be guilty of a class C misdemeanor.

28 Sec. 10. This act shall take effect and be in force from and after
29 its publication in the statute book.

secretary





Department of Health and Environment
Azzie Young, Ph.D., Secretary

Testimony presented to Reply to:

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2796

Passage of House Bill 2796 will establish a licensing/regulatory program for facilities having tanning devices available to the public. The responsibility for implementation of this program would rest with the Kansas State Board of Cosmetology.

In 1986, the Kansas Department of Health and Environment conducted a survey of 1000 physicians regarding injuries related to tanning devices. Over 500 replies to the survey were received by the department indicating more than 500 injuries had been treated in the previous year. Three percent of those injuries were considered to be extreme and nine percent were considered as serious. From this survey and other data the KDHE agrees that tanning devices need to be regulated in order to protect the public health.

KDHE supports a program directed at protecting and reducing injuries associated with tanning devices. In past years, the KDHE has proposed program initiatives that have not received budget support. KSA 48-1601 authorizes the Secretary, Kansas Department of Health and Environment to register and control radiation producing devices.

KDHE supports passage of H. B. 2796 as a means of furthering the protection of consumers using tanning devices. KDHE recommends that the Department be included in the development of regulations and training of inspectors.

Testimony presented by: Stephen N. Paige
Director
Bureau of Environmental Health Services
Division of Health
February 19, 1992

PAIGE
2-19-92
Attch # 2



STATE OF KANSAS

KANSAS STATE BOARD OF COSMETOLOGY

HOUSE BILL NO. 2796

717 South Kansas Avenue
Topeka, Kansas 66603-3811
PHONE (913) 296-3155

Thank you on behalf of the board of Cosmetology for the opportunity to respond to House Bill #2796. This bill would place the licensing, inspections and administration of tanning devices and facilities under the jurisdiction of the Kansas State Board of Cosmetology.

This agency is not in opposition of this bill, however, we will need additional funds in order to administer the requirements this bill proposes.

However, nothing is stated in this bill regarding tanning devices in private homes. Section 1.(5) states "any facility, whether independent of part of a salon" shall be included in the definition of "tanning facility." Would this include those tanning devices in private homes? This area is not specifically addressed in H.B. 2796. The term "facility" does not seem to be adequately defined.

An impact study is being compiled for your future review, at your request.

PH&W
2-19-92
Alm #3

To: REP Sader

February 19, 1992

Rep. Carol Sader, Chairman
House Committee on Public Health & Welfare
Capitol Building, Room 115-S
Topeka, KS 66612

Louis G. Petrakos
11422 W. 112th Terrace
Overland Park, KS 66210
(913) 469-5908

Key Points Re: HB-2796

1. We generally support but are in opposition to certain provisions of HB-2796.
2. We endeavor to provide safe tanning services and to informing our customers.
3. One of our major concerns is that no attempt was made by the committee to contact any tanning salon owners regarding this legislation.
4. Based on our knowledge, dermatologists appear to be split on this issue.
5. Each of our tanning salons has a significant number of clients that have been advised to tan, and in many cases these customers have even been referred to us as patients by their dermatologists.
6. Indoor tanning salons do provide proper instruction to their customers.
7. The reality is that **sunburns cause skin cancer** and *indoor tanning helps prevent sunburns*.
8. As responsible tanning salon proprietor's we have adhered FDA regulations as stipulated to the tanning industry.

JH/W
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9. The only success of this bill as it is currently written would be the eventual elimination of every salon in existence.
10. Another area of concern is facility fees.
11. Loss of indoor tanning salons would result in other direct losses to the state. If one by one these people lose their jobs, lost also will be federal, state, and local income taxes paid in by the employees. In addition each business pays the state sales tax collected on retail products, personal property taxes, unemployment taxes, and income tax ourselves.
12. Implemented properly, state regulations would be an effective manner of boosting the integrity of the indoor tanning industry.

PHW
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att #4
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February 19, 1992

Rep. Carol Sader, Chairman
House Committee on Public Health & Welfare
Capitol Building, Room 115-S
Topeka, KS 66612

Louis G. Petrakos
11422 W. 112th Terrace
Overland Park, KS 66210
(913) 469-5908

With the permission of the Committee I would like to present the following testimony generally supporting but in opposition to certain provisions of HB-2796. I am speaking in behalf of a group of 12 other indoor tanning salons in Johnson County. Some of us are members of the Suntanning Association for Education, or SAE, an organization which is devoted to safety training of tanning salon operators and employees. All of us endeavor to provide safe tanning services and to informing our customers. As a spokesperson for this group I would like to address both issues and concerns we have in regards to the proposes House Bill 2796.

One of our major concerns is that no attempt was made by the committee to contact any tanning salon owners regarding this legislation. This is based on our contact of over 40 tanning salon owners in Northeast Johnson & Wyandotte Counties.

Based on this observation, it would appear that an attempt is being made to run this bill through as quickly and silently so as to avoid as opposition as possible.

In this is the case, I would like to point out that this is a serious mistake. For years many major corporations in this country have operated in a similar fashion. The automobile industry is a good example, one whose problems are

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all certainly familiar with. Until recently, the executive officers and engineers would dictate all operations and procedures from their corporate offices without ever visiting the assembly lines to determine what worked and what did not. In the last few years one by one the former auto giants realized (only after being directed by outside observers to the industry) that if they wanted to learn how to build better cars they needed to get their input from those people that actually built the cars.

Prior to mass production of the Ford Taurus and Mercury Lynx, Ford Motor Co. allowed their workers to review and recommend changes in both design of the car and assembly lines to build the cars. The workers came up with over 700 changes. Ford Motor Co. recognized about 690 of them.

So our question to each of you is why not ask us? This is our business, and the majority of us have been at it for 3 to 8 years. If we wanted to see a new law passed wouldn't we come to you?

One area we are not certain of is where the initial recommendation for this bill originated. We have heard that it is through the AMA. If this is the case please consider looking more thoroughly into the AMA's stand on indoor tanning over the past few years as their opposition has vacillated from time to time. As a matter of fact based on our knowledge, dermatologists appear to be split on this issue.

Each of our tanning salons has a significant number of clients that have been advised to tan, and in many cases these customers have even been referred to us as patients by their dermatologists. As a matter of fact, we have discovered that often times those Dermatologist's who are most opposed to our industry offer Ultra-Violet treatment in their office at the rate of \$75 per visit. While the average price of a session is around \$4.50 at a tanning salon. In considering the opinion of the AMA I feel that they are certainly in no position to cast doubt on ours or any other

DHW
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industry in our country. They have themselves been plagued with more law-suits than their are perhaps tanning salons in the United States. Even our own insurance carriers recommend and encourage that we get a "second opinion" for surgery or treatment these days. Just a few years ago that practice was unheard of and even looked down upon. So if your source is in fact the AMA. Please get a second opinion for our sake. SAE is certainly a qualified source.

If the purpose of this bill is to regulate tanning for the sake of regulation, then we should consider the other forms of tanning that occur within the state. For example:

Should there be licenses for people to tan in their own backyards--which is more dangerous and carcinogenic than tanning beds? Perhaps the State should consider regulating fishing, boating, or water skiing, since they expose people's skin to sunburn? Let us not overlook sunbathing that occurs at the city municipal pools in every community in the State, not to mention hotels, motels, country clubs, apartment complexes, and neighborhood pools operated by homes associations?

If all voluntary tanning is not controlled, then who will be liable for these numerous forms of unregulated tanning?

Indoor tanning salons do provide proper instruction to their customers. On the other hand, when was the last time you remember a lifeguard providing you or a family member with advice or training on tanning? The fact is that people suffer sunburns outdoors, at pools and on beaches, both at home and on tropical cruises and vacations. There has never been a single proven case of skin cancer caused by indoor tanning.

The reality is that **sunburns cause skin cancer** and *indoor tanning helps prevent sunburns* and at the worst only ages skin.

As responsible tanning salon proprietor's we have adhered FDA regulations as stipulated to the tanning industry

DH+W
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since we have been in business.

Unfortunately, the only success of this bill as it is currently written would be the eventual elimination of every salon in existence. For instance;

Section 6 (c) line 24 States "The Facility shall control the interior temperature of a tanning device so that it may not exceed 100 degrees Fahrenheit." Does this refer to the temperature of the facility, or the temperature of the device. I must point out that if the reference is in fact to the "device" or the tanning bed that this will be an impossible goal as the temperature of all tanning beds exceeds that limit within the first 10-15 minutes of operation. Perhaps a preferable manner to state this regulation would be to follow the example of other states which have tanning regulations. Ohio's Administrative Code has a similar rule which is clearer to understand and leaves no question as to what the law means. It reads:

"Each tanning facility shall be so equipped to dissipate heat so that the interior temperature does not exceed 100 degrees fahrenheit or 34 degrees centigrade."

This is but one example of a Fahrenheit in House Bill 2796 which would have disastrous consequences to our State's tanning industry. Others are addressed in a letter dated February 17, 1992 to Rep Carol Sader and Committee Members from the law firm of Kahrs-Nelson of Wichita, Ks.

Another area of concern is facility fees. Excessive fees would have equally serious affects. While the price of every good or service we buy has gradually risen in the past 8 years, the average price of a tanning session has remained the same during this time.

In many cases tanning salon owner's have actually been forced to lower their prices in order to stay in business due to the competition in the market place. An excessive fee would either be absorbed by the owner's or passed on to the public as an indirect services charge tax by the state. In either case this practice can lead to the eventual demise of

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the business as experienced in other States which took less than prudent measures to establishing regulations.

Once again if the State's intent is to regulate the tanning industry without the input of the industry itself then the results will be to regulate tanning out of existence. Before this is allowed to happen please consider these important factors.

On the average tanning salons are open 70 to 100 hours each week. As the co-owner/operator of two tanning salons in the past eight years I have employed 5 to 16 full and part-time employees at any given time. Our employees are in a group where unemployment has historically run high.... Teenagers and college students. We also employ many workers on a part-time basis that have a full-time job that need the extra money to quote "Make ends meet."

Another up side to the tanning industry is the fact that the turnover in our business runs far lower than that of many other positions which are available to young people. On the average most of our employees have worked from 3 to 6 years, beginning in high school and working through college during Christmas and spring breaks and summer vacations as well. How many young people do you know, or know of that can make that claim.

If one by one these people lose their jobs, lost also will be federal, state, and local income taxes paid in by the employees. In addition each business pays the state sales tax collected on retail products, personal property taxes, unemployment taxes, and income tax ourselves.

In closing I would like to point out that as a group we can provide the committee with much more pertinent information, unfortunately we did not learn of this bill until February 11th and first heard about this hearing on the 14th.

As a resident, tax-payer, and business proprietor in our great State of Kansas I can not overemphasize the importance for this committee to slow down the processing of this bill

so it can be created logically, and in a manner that we can all live with and confidently say we did it as a team not as adversaries for we do not oppose state regulation, yet at the same time we are, as a group, united against the current handling and verbage of the bill. Implemented properly, state regulations would be an effective manner of boosting the integrity of the indoor tanning industry. Done improperly the end results would create a situation that we all would live to regret.

I wish to Thank each of you sincerely for your time, understanding, and your ongoing consideration of this bill.

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KAHRS, NELSON, FANNING, HITE & KELLOGG

ATTORNEYS AT LAW

H. W. FANNING
RICHARD C. HITE
DARRELL D. KELLOGG
RICHARD L. HONEYMAN
LARRY A. WITHERS
GARY A. WINFREY
ROBERT HALL
CLARK R. NELSON
STEVEN D. GOUGH
SCOTT J. GUNDERSON
RANDY J. TROUTT
CHARLES E. HILL
ARTHUR S. CHALMERS
MARC A. POWELL
KIM R. MARTENS
LINDA S. PARKS
F. JAMES ROBINSON, JR.
DON D. GRIBBLE, II
JOHN G. PIKE
VINCE P. WHEELER
ALAN R. PFAFF
DENNIS V. LACEY

SUITE 630 • 200 WEST DOUGLAS AVENUE
WICHITA, KANSAS 67202-3089

TELEPHONE (316) 265-7761

FAX (316) 267-7803

DAVID E. ROGERS
MARK E. FERN
STACY L. STIPP
DANA D. PREHEIM
DONALD N. PETERSON
CURTIS L. PERRY
SIDNEY R. THOMAS

W. A. KAHRS
(1904-1989)

ROBERT H. NELSON
(1904-1977)

OF COUNSEL
DANIEL D. TONTZ
CRISTY W. PASSMAN

February 17, 1992

Rep. Carol Sader, Chairman
House Committee on Public Health & Welfare
Capitol Building, Room 115-S
Topeka, KS 66612

VIA FEDERAL EXPRESS

Re: HB 2796 (Tanning Facility Regulation)

Ms. Chairman and Committee Members:

With the permission of the Committee, we would like to present the following written testimony generally supporting but in opposition to certain provisions of HB 2796.

By way of background, we represent a consortium of nine tanning salons located in Wichita.¹ Since as early as 1983, tanning has been their only business. Most are members of the Suntanning Association for Education, an entity devoted to safety training of tanning salon operators and personnel, and all endeavor to provide safe tanning services to informed customers.² Accordingly, with the exceptions identified and explained below, the consortium urges passage of HB 2796.

Exception Number One

Section 5 of the Bill should be struck or amended because it suggests Kansas citizens under the age of 18 cannot read and appreciate written warnings which those 18 and over can read and appreciate. The suggestion lacks a rational basis.

¹ These tanning salons are identified at the conclusion of this testimony.

² All consortium members already provide their customers with written warnings substantially similar to those set forth in Section 2 of the Bill. The tanning beds of all members already have affixed to them warnings substantially similar to those called for by Section 3 of the Bill (and mandated by the FDA). All make protective eyewear mandatory and all have trained operators present during operating hours.

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The medical profession has long maintained that one of the greater risks posed by ultraviolet radiation, be it from the sun or otherwise, is the acute burn, particularly among younger individuals. Many of us can remember the "first-time-out" summer sunburn. Gradual and cautious use of tanning beds promotes the development of pigment change (a "base tan") which can help guard against the acute burn. It is not wise to refuse, for example, the 16- or 17-year old soon to embark on a ski or spring break trip the opportunity to carefully condition his or her skin in the weeks before leaving.

Several Wichita dermatologists, including Dr. Steven Passman of the Dermatology Clinic, P.A., have referred patients to consortium tanning salons for phototherapy treatment. Should access to this cost-effective treatment be denied those under 18 years of age?

Based upon the foregoing, we urge that Section 5 of the Bill be struck or, at a minimum, amended to provide: "A tanning facility shall not allow any persons less than 16 years of age to use a tanning device without written permission from a parent or guardian."

Exception Number Two

Most tanning salon "lobby" areas are approximately bedroom sized. Any three square foot sign, such as proposed by Section 3(a) of the Bill, will be obtrusive and would likely result in "sensory overload." Cunitz, Psychologically Effective Warnings, 17 Hazard Prevention 5 (1981). The same would hold true for two square foot signs in individual tanning rooms only slightly larger than the tanning beds therein. Moreover, from my years of product liability consulting with Drs. Laughery and Laux at the Rice University Human Factors Engineering Laboratory in Houston, I have learned that the presentation and content of warnings are much more important safety considerations than their physical size. See Lehto & Miller, Warnings: Fundamentals, Design and Evaluation Methodologies, 16 (1986) and Horst, McCarthy, Robinson, McCarthy & Krumm-Scott, "Safety Information Presentation: Factors Influencing the Potential for Changing Behavior," Proceedings of the Human Factors Society, 30th Annual Mtg., p. 111 (1986). Three and two square foot signs with compressed messages would comply with the literal language of the Bill, but not its obvious intent. Accordingly, we urge that the second sentence in Section 3(a) and the second sentence in Section 3(b) be amended to provide: "The sign shall be composed to attract attention and shall contain the following language"

The principal standards in the field of warning design are those promulgated by the American National Standards Institute. ANSI Standard Z535 deals with the design, application and use of signs, colors and symbols intended to identify and warn against specific

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hazards. To comply with the ANSI standard, a safety sign must, among other things, begin with one of the signal words "Danger," "Warning" or "Caution." We believe the proponents of HB 2796 have selected the wrong signal word for use in Section 3 of the Bill. Ultraviolet radiation being a naturally occurring phenomenon (the sun), we believe the appropriate signal word is "Caution."

With final regard to warning signs, the sign contemplated by Section 3(a) of the Bill refers to exposure-related "bruising." To our collective knowledge, bruising is wholly unknown in the tanning industry. The proponent of this Bill should be required to cite you to medical or photobiological literature supporting the proposition that indoor tanning can cause bruising. Likewise, the signs proposed in Sections 3(a) and 3(b) of the Bill state: "Pregnant women or women taking oral contraceptives who use this product may develop discolored skin." We know of absolutely no support for this proposition. Oral contraceptives make some women photosensitive (and this risk is specifically addressed in Section 2(a)(4)(C)(v) of the Bill), but to our knowledge the medical literature is devoid of support for a skin discoloration risk among pregnant women or those taking oral contraceptives.

Exception Number Three

Section 3(b) of the Bill is surplusage and should be struck in its entirety. As we are sure the Judiciary Committee would advise you, existing Kansas tort law is quite capable of controlling the legal liability of tanning facilities and manufacturers of tanning equipment alike. An affirmative statement to this effect is unnecessary and unsupportable by the proponent of this legislation.

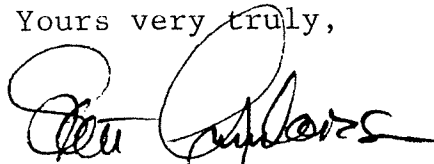
Exception Number Four

We believe some legislative limit on the Board of Cosmetology's otherwise unlimited discretion to establish license and renewal fees should be established. Consequently, we urge that Section 8(f) of the Bill be amended to provide: "The board shall establish appropriate licensure and renewal fees, not to exceed \$250.00 per year for each tanning facility, by adoption of rules and regulations." Fees would, of course, be subject to continuing legislative scrutiny.

On behalf of our member clients and their customers, we thank you for your consideration of our testimony. Should you have any questions, please let me know.

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Yours very truly,



Scott J. Gunderson
KAHRS, NELSON, FANNING,
HITE & KELLOGG

SJG/plc

cc: Golden Glow, Inc.
951 South Rock Road
Wichita, KS 67207

B-Tan, Inc.
8526 West 13th, Suite 170
Wichita, KS 67212

Sunkissed Tanning Solarium
120 North Rock Road
Wichita, KS 67206

Tan For All Seasons
3833 West 13th
Wichita, KS 67203

Body Bronze, Inc. of Kansas
2121 North Tyler, Suite 111
Wichita, KS 67212

Caribbean Sun, Inc.
7777 East 21st, Suite 170
Wichita, KS 67206

Cherry Creek Suntan, Inc.
1625 South Rock Road, Suite 135
Wichita, KS 67207

Sweetbriar Suntan
2309 North Amidon
Wichita, KS 67204

Sunburst East
946 South Rock Road
Wichita, KS 67207

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B. 1

The History of Sunbathing

Tanning in
ancient Times

The sun has always played an important role in the development of life on our planet. Primitive men used sun and water as medication. All civilizations have utilized the sun's ultraviolet rays for therapeutic purposes. This treatment is called "Heliotherapy". For example, the Assyrians created facilities intended solely for sunbathing purposes. The Egyptians went so far as to worship the life-giving power of their sun god Ra. The ancient Greeks attached considerable significance to heliotherapy, and the great physician Hippocrates expressly specified the sun as a viable medical remedy. This father of all physicians assessed the quality of life in ancient Greek cities according to their favorable position toward the sun.

Roman Solariums

Eventually, the Romans defined heliotherapy as part of their bathing culture. This became very popular among the people

"Healing
Mountains"
of the Germanic
Races

and many built solariums on top of their houses. The Germanic races also recognized the sun's therapeutic benefits, but due to the lack of sun in their homeland, were forced to climb to the high "therapeutic mountains" in order to obtain the desired bodily reaction.

Sun Deficiency in
the Middle Ages

Thus, sunbathing is clearly not an invention of the present nor a mere short-lived fad. It was not until the turn of the century when antibiotics were discovered that sunlight for medicinal purposes began to wane. However, today's doctors are again discovering "phototherapy" as a beneficial, health-promoting power for our bodies. Routine bathing and tanning, so popular during the Roman era, discontinued with the demise of the Roman Empire. Eventually, the practice of heliotherapy lost significance. However, history indicates that the effects of the insufficient exposure to sun soon became evident. Paintings and sculptures by the artists of the Middle Ages show that severe cases of rickets were very widespread among the general population. In contrast, the Greek culture, which placed great importance on sunlight as an integral part of its people's physical fitness, most often portrayed their models in the nude with quality body shape and tone. During the Dark Ages, nudity or even light clothing were considered immoral, and therefore, body training in the Greek sense was not encouraged. A change in values and attitudes has only recently occurred (1, 3, 26).

Rediscovery of
Heliotherapy

Heliotherapy for varicose veins was introduced in France toward the end of the 18th century. In 1855, *Rickli* of Switzerland opened the first sanatorium for heliotherapy treatment. The Nobel Prize was awarded to *Finsen* in 1903 for his successful scientific experimentation involving the treatment of skin tuberculosis with ultraviolet light (26). Throughout the 1920's and 1930's, *Rollier* continued to use phototherapy as a remedy for other forms of tuberculosis (3). It was only when chemotherapy gained popularity in the medical community that heliotherapy again was forgotten. However, once the unpleasant side effects of drug treatment became well known, phototherapy was again looked to as a viable and perhaps less burdensome alternative. In 1959, *Stegmaier* and *Fulton* employed UVA light in conjunction with photo-

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Photochemo-
therapy

sensitizers to create the foundation for photochemotherapy. In 1975, *Tronnier* published the treatment of dermatosis with medium-wave UV-rays without sensitizing medication, and labelled it "Selective Ultraviolet Phototherapy" (SUP) (38).

Phototherapy

In the mid-1970's, the *Institute F. Wolff* conducted research in order to determine the relative thresholds of the various photobiological reactions in the body. On the basis of the aforementioned cumulative knowledge, modern ultraviolet radiation technology was invented (27).

Heliotherapy Today

Revitalization
by Sunlight

Cloudy skies, short winter days and air pollution all affect our environment. During the wintertime, the city dweller in today's industrial society could realistically feel as though he were confined to a dark dungeon. And when suddenly a sunfilled spring day arrives, what would we observe? Radiant colors and the warm March sun serve to allude to the new approaching season. Gradually our mood changes. After a few hours and days in the warm spring air we feel more

The Lack of Sun
during the
Winter Months

active, revitalized and productive (1). It may seem as though we had experienced a rebirth.

We have all at one time or another experienced seemingly endless grey winter days. When we go to work, it is dark. When we return from work, the sun has already set. During working hours we move about in glass-shielded or even windowless rooms. Over the weekend, the winter weather again forces us indoors, be it in the living room, restaurant or in the car. Behind these windows, there is little hope for the brightness and stimulation which we normally derive from the sun. However, dimmed as the sun is during the winter months, we will not experience a sunburn either. This very sunburn, however, often quiets our addiction to the sun with painful experience. Sunburn is the body's natural alarm signal. Ignoring the body's own warning system will result in serious consequences. Therefore, it is essential that we take heed of sunburn and carefully regulate exposure times in order to avoid this sunburn.

Sunburn as
Warning

If sunburn could be prevented, the apprehension felt regarding permanent skin damage, such as premature aging and skin cancer, would be eased. Vacation time could be enjoyed from the first day onward.

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The Scientific Dispute Concerning Ultraviolet Rays

Controversal
scientific
Statements

The scientific community has for years recognized that all biological life is unquestionably dependent on sunlight. Consequently, it should be evident to all physicians that exposure to the sun's rays has a very strong impact on the physical and psychic well-being of man. The healing effect of sunlight is also well known, and ultraviolet light has been used very successfully in the treatment of various skin diseases (3, 28, 29, 30). In spite of all this, sunbathing has been the subject of considerable controversy. Dermatologists in particular state that the ultraviolet portion of the sun's spectrum is dangerous. Many skin specialists allege that any tanning will lead to premature aging of the skin (elastosis) as well as skin cancer. *Raab* goes so far as to state that he can predict when these biological events will occur. By taking into account the skin type and the environmental conditions, he hypothesizes that the threshold limit for the occurrence of carcinoma is somewhere between 50.000 and 120.000 sun hours (31). *Kaase et al.*, set this threshold even lower at 40.000 hours in the sun intensity of Central Europe (32).

Experience
versus
Condemnation of
the Sun

The condemnation of the sun's rays is in direct contradiction to what is required for our biological processes. If ultraviolet rays would have the fatal effect alleged by many, the human race would have been extinct long ago. However, the exact opposite is true. The more the sun shines, the healthier and happier people are! *Greiter, Guttman* and *Washüttl* stated: "The publicized negative correlation in Western society between ultraviolet rays and the human organism is contradicted by the behavior of more than 200 million people, who, despite all warnings, increasingly travel to sun-drenched regions." (34). In *Raab's* opinion: "We lose public confidence when we, on the one hand, recommend radiation therapy for certain diseases, and on the other hand, tell people to cover themselves with thick protective oils and creams. Furthermore, we develop sunscreens in order to prevent any damage which could possibly be caused by solaria." (35). At a conference involving over 240 physicians and scientists, *Tronnier* stated that as to tanning salons:

Excessive
Warnings
are untrustworthy

"UVA light, which is the portion of the spectrum which induces tanning and which is most prominently present in the lamps used by the majority of tanning salons, most certainly does not cause skin cancer. The only people who contract skin cancer are those who have a perpetual sunburn. Light-induced cancer is a typical scar carcinoma." *Stüttgen, Kortling et. al.*, report that there is no confirmed proof that extensive tanning in the sun or in solaria contributes to malignant melanoma. Experiments conducted by *Stadler* and *Orfanos* found that after 60 tanning sessions on 10 test persons, no damage to the skin became evident. Therefore, no objections were voiced against limited, reasonable use of ultraviolet devices for tanning purposes (36). Sensible use is what determines the advantages or disadvantages of sun exposure. Even the scientists of the World Health Organization (WHO) agreed that the impact of ultraviolet light on the human organism corresponds directly with the dosage received (37). In his "sun account", *Greiter* also views the dosage as the decisive factor in beneficial sun exposure. When a person exceeds the sunburn threshold (1 MED), the negative effects prevail (38).

TRONNIER: No
Skin
Cancer from UVA

Light-induced
Cancer
can occur with
Excess
Dosage

With proper Use,
Tanning
Devices are
harmless

The Dosage
determines
whether Tanning
has
positive or
negative
Consequences

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BIOPOSITIVE EFFECTS

The Sun Vitamin: Vitamin D₃

Vitamins are essential for Life

Synthetic Vitamin D is no Substitute

The Vitamin D₃ is responsible for the Vitamin D Activity in the Body

Vitamins are essential active substances which the body cannot produce or not in sufficient quantities. Most often they can be found in the food.

Unfortunately, cod liver oil is the only significant food source of vitamin D₃. Tablet-form synthetic vitamin D does not have the same effect on the body and in large amounts can be toxic (11).

The most important source of vitamin D is the sun. To be more precise, it is the shorter wave end of the light spectrum which induces vitamin D₃ formation. UVB rays convert the provitamin 7-dehydrocholesterol present in the skin into vitamin D₃. The vitamin D formed in the skin is transported by the blood to the kidneys. There it is changed into the final active compound. The sun also controls the proper concentration of Vitamin D₃ by converting excess amounts into inactive forms like Lumisterol and Tachysterol.

Ergosterol is another substance which can be ingested with food and is converted by ultraviolet light into vitamin D. However, the ultimate form of ergosterol is vitamin D₂, but it is vitamin D₃ which induces 70% to 90% of the body's important vitamin D processes (10).

Because it is the exposure to the sun's ultraviolet light which best creates vitamin D in the body, it is understandable that in the wintertime, we may not be able to form the amount of vitamin D we need. Clouds, fog, heavy clothing and a tendency to remain indoors for most of the season are all factors which could contribute to a deficiency. Four weeks after deprivation of sun the Vitamin D₃ level drops drastically.

Calcium Balance

Vitamin D₃ is primarily responsible for Calcium Resorption

As the diagram above illustrates, vitamin D₃ and the resultant calcium binding proteins contribute to the absorption of calcium which the body receives by ingestion. Calcium is very important for the proper functioning of the entire body. Calcium as a carrier substance controls the cell's internal process and assists in cell division. It also plays a role in muscle contraction and in transmitting nerve signals. The amount of glycogen (stored sugar) is also reduced in the body (44, 46).

Calcium Ions as internal Carriers

The body's calcium "messenger service" operates at the speed of light. An electrical signal is sufficient to open up the cell membrane to the many calcium ions present outside the cell. The higher the concentration difference of calcium between the outside and inside of the cell, the faster the required reaction.

Lack of Calcium: Functional Impairment and Bone Deformities

If a calcium deficiency exists, the body will withdraw from its calcium reserves stored in the bones in order to maintain the proper calcium level. If too much calcium is withdrawn, the bones become soft or very brittle (45).

Experimentation Results: Increased Calcium Resorption found under UVB Lighting

The degree to which an adequate calcium level is dependent on UVB is demonstrated by an American experimentation. In this research, two groups of test persons spent a period of several weeks under typical, artificial indoor lighting. In spite of being fed a diet which adequately supplied their calcium needs, the calcium level declined to 40%. Subsequently, one

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group was exposed to UVB enriched lighting while the other remained in the same surroundings. After only four weeks, it was found that the calcium resorption of the control group had further declined whereas the test group showed a significant increase in the calcium level (12). The results coincide with other findings which state that diseases related to lack of calcium most often occur in the winter and spring seasons.

Therapeutic Radiation

*Phototherapy as
a supportive
Measure*

The therapeutic use of UV light, phototherapy, has already proved itself in the field of dermatology. Despite its long tradition in this specialized area, it has been under utilized in general medicine. This seems incomprehensible given the fact that natural global radiation has long been used therapeutically to ease specific illnesses as well as a supplemental treatment for other types of therapy. Use of phototherapy as opposed to drug treatments can minimize many undesirable side effects as well (48).

Psoriasis Vulgaris

*PSORIASIS
Symptoms*

Psoriasis is a disease which affects approximately 2% of the world's population. The most common symptom is red, scaly patches which tend to form on parts of the body which have weaker circulation such as the extremities, scarred tissue and elbows. These symptoms recur in "stages".

Psoriasis is characterized by accelerated DNA synthesis and cell division in the basal cells of the epidermis. Thus, the division rate of the basal cells takes only 3-4 days instead of the usual 28 days in normal skin. The symptoms and effects of psoriasis generally improve throughout the summer months and those who live year around in hot, sunny regions of the world are generally not affected by this disease. Events which can bring on a bout of psoriasis include psychological stress, alcohol abuse, poor dietary habits and lack of sunshine.

*Ultraviolet
Treatment*

Ultraviolet rays have been found to activate aerobic respiration, thereby supplying needed oxygen to body tissue. *Tronnier* has already shown that by means of phototherapy, oxygen pressure in tissue was significantly increased and normalized while there appeared a corresponding reduction in skin bleeding. Relapses can be predicted when the oxygen pressure in the tissue decreases.

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RICKETS
Symptoms

Rickets

Rickets is considered one of the most serious diseases afflicting many newborns and infants. The illness is the result of a calcium deficiency in the bones due to insufficient vitamin D supply as well as to the body's failure to assimilate phosphorous (hypophosphataemia).

The skeleton becomes soft and therefore, deformed. The front part of the skull often protrudes, the bone cartilage of the rib section distends, the chest cavity becomes enlarged and bell-shaped, the pelvis takes on a distorted appearance and the tibia in both legs become twisted, thereby forming "cork-screw legs". Normal body growth is retarded and the teeth become displaced (malocclusion). These children also are prone to suffer from bronchitis, pneumonia, diarrhea and spasmophilia.

Ultraviolet
Treatment

With the exception of cod liver oil, UV exposure is practically the only method of forming vitamin D₃ in the body. Anywhere from 70% to 90% of calcium resorption depends on the presence of vitamin D₃, UV light converts 7-dehydrocholesterol in the skin into vitamin D₃ which, in turn, is catalyzed in the kidney to its final effective form.

OSTEOMALACIA
Symptoms

Osteomalacia (Softening of the Bones)

Osteomalacia is a disease in adults due to deficient incorporation of essential minerals into the bone structure. The bones become soft and brittle and bend easily. Osteomalacia is caused by lack of vitamin D₃ and adequate UV radiation as well as by the normal aging process.

Ultraviolet
Treatment

Exposure to UV radiation helps to form vitamin D₃ and thus aids in the necessary calcium absorption needed for strong bones.

ACNE
Symptoms

Acne

Acne vulgaris frequently affects adolescents. 60% of males up to age 16 and 70% of females up to age 12 suffer from this disease.

Acne conglobata and androgenetic acne is a type which often manifests itself in women later on in life.

Acne efflorescence especially affects the face, neck, chest and back area of a person.

Comedones or blackheads (a dark-colored blockage of the skin's pores) constitute typical features of acne and are frequently accompanied by redness, swelling, papules and pimples. The deeper the inflammation of the skin, the greater the chances of scarring.

There are three main causes for an outbreak of acne:

1. Seborrhoea (abnormally increased secretion and discharge of the sweat glands);
2. Bacteria which decompose fatty lubricant matter secreted by the sweat glands of the skin;
3. Interference in the energy metabolism due to the reaction of the unsaturated fatty acids with free sulfhydryl (a change in the oxidation potential).

Ultraviolet
Treatment

When exposed to ultraviolet light, the disturbed cornea and sweat secretions become controllable. It appears that exposure to sunlight causes a more rapid renewal and removal of dead cells on the outer layers of the skin. UV allows the sweat glands to drain, thereby decreasing the blockages and inflammation in affected areas.

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Use of Indoor Tanning Equipment

*Light Protection
Treatment:
Development
of the Body's
natural
Light Protection*

Light Protection Treatment. As mentioned in the previous chapter, tanning equipment is recommended for the development of the skin's light protection mechanism, particularly useful when travelling to high sun-intensity vacation spots. However, a necessity and precondition for this development is a natural radiation spectrum similar to that of the sun itself. The amount of UVA must be adequate to oxidize melanin but a minimum of UVB must also be present in order to initiate pigment formation. Tanning lamps which emit pure UVA are not ideal for this skin preparation because exposure can produce a maximum 10-fold light protection. On the other hand a sun-similar spectrum provides a sun protection factor of up to 100 (43).

Dosage for vacation purposes: If possible, daily exposure for the preceeding 3 weeks by means of a gradual increase in exposure time.

*Cosmetically
satisfac-
tory Tanning
requires
a natural
Spectrum*

Skin Tanning: Tanning occurs in two stages. Pigment is initially generated by UVB and is subsequently darkened by UVA. Because of the inherent risks, pigment formation by high intensity-UVA should be avoided (see chapter "Skin Tanning"). For the best tanning results, any indoor tanning

lamp must utilize a spectrum similar to that of the natural sun; that is, both UVA and UVB must be present. Pure UVA can only tan pre-existing melanin granules in the skin, but will generally not stimulate the production of new melanin.

Dosage for tan maintenance: Two exposures per week with a maximum time of 30 minutes per session.

*Annual
Fluctuations
of Natural Global
Radiation*

*UV Reduction
due to
modern Living*

Health Care: The body is dependent on sun energy and is therefore considerably influenced by seasonal variations. The UVA portion of the sun's radiation is reduced by about 75% in the winter. UVB loses over 90% of its intensity during the same period as compared to that of the summer season. The changes in the body's energy level which varies according to seasonal radiation patterns is somewhat mediated by its own heightened physiological light sensitivity. However, when people shut themselves off from the outdoors and remain behind closed doors throughout the winter, the already low dosage of UVA can be cut in half. Furthermore, any amount of UVB could be totally lost. It is no wonder that

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*Compensation for
insufficient
Sunlight*

wintertime is the season in which the body becomes "ripe" for the onset of illnesses and certain diseases. It is often in the winter that vitamin D₃ levels and blood calcium concentrations reach the lowest annual point. In response, bodily activity and physiological capabilities often decline as well. Indoor tanning equipment can compensate for any deficiency or strain which the body may experience due to seasonal rhythms.

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Suntanning Association for Education

February 18, 1992

The Honorable Carol Seder
Chair, Public Health and Welfare Committee
115 South
Capitol Building
Topeka, Kansas 66612

Dear Representative Seder:

I represent the Suntanning Association for Education (S.A.E.), a national, non-profit trade association for the indoor tanning industry. Our primary goals are in the areas of education, legislative action, and media relations.

Our organization is in full support of legislation which provides for a tanning facilities inspection program at the state level. Our primary goal is to ensure adequate consumer protection and knowledge of the potential risks involved with tanning, and a fair, workable set of rules for the tanning facilities. We have worked with almost every state involved with tanning legislation, and have successfully provided information and industry representatives in a working group capacity which have led to excellent programs. To date, 27 states are at some point in the legislative or draft rule process.

With regard to House Bill 2796, I respectfully submit the following comments for the committee's consideration.

1. Section 1 (1)(2): Recommend to change the enforcement of this act from the Board of Cosmetology to the Department of Radiological Health, or such agency who is knowledgeable in ultraviolet radiation and consumer protection. Our nationwide experience shows the process of drafting and implementing a tanning facilities inspection program is much more productive.
2. Section 3 (a) lines 7-8: The warning sign size of 36 in. by 36 in. is exceedingly out of proportion to the potential risk involved with cosmetic ultraviolet light exposure. For example, nuclear radiation warning signs posted in a cancer treatment facility are about 8 in. by 10 in. Microwave in use signs are about 5 in. by 7 in. Most standard traffic signs are not nearly as large as the proposed tanning facility sign. The objection here is not in displaying a warning sign, but against the unreasonable size. Nationwide sign sizes emerging as adequate and acceptable are 8 in. by 10 in., or 9 in. by 12 in. In addition, UV emitting equipment is required to have permanent warning labels conspicuously posted on the units, and Section 2 of this bill requires the facility to give each customer a written warning statement. The extent to which the consumer is faced with warning information will only serve to encourage them to ignore it.
3. Section 3 (a) lines 9-22: Recommend that the warning language used be that which is promulgated by the Food and Drug Administration (FDA) in 21 CFR 1040.20 (See Attachment A.) The FDA invests a significant amount of time and money to devise, promulgate, and supervise ultraviolet protection for consumers. The statements regarding skin "bruising", and "pregnant women or women taking oral contraceptive who use this

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product may develop discolored skin" are not Board certified medical statements, and may cause undue alarm in the customer. Skin bruising and discoloration can result from many other sources not related to UV exposure.

4. Section 3 (b): same comments as 1 and 2.

5. Additional comments: Sign standardization and economy of scale should be employed here. Sign sizes as proposed in the bill are economically burdensome. Recommend that the Board design and distribute, as part of the facility registration package, standard signs. This would assist the facilities in compliance with the rules.

6. Section 5: What rationale is creating this section? No other state has considered prohibiting persons under the age of 18 to tan, but instead, have developed strict rules to prevent abuse. With regards to UV exposure, tanning indoors offers a controlled environment, where a person receives moderate and gradual exposure to UV, greatly minimizing the risk of overexposure. Overexposure causes burns, which conclusively leads to long-term skin damage. Moderate, controlled exposure, eliminating skin burning is not proven to contribute to long-term damage.

S.A.E. recommends the following provision for minors:


a. Before any person between fourteen and eighteen years of age uses a tanning device, the tanning facility shall secure a statement signed in the presence of the tanning facility owner or operator by the minor's parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides. A person under fourteen years of age shall be accompanied by a parent or legal guardian when using a tanning device.

7. Section 6 (a): Recommend to change "sufficiently knowledgeable in the correct operation of the tanning devices" to "formally trained in the correct operation of the tanning devices." The agency can then review and define a formal training program for operators which will aid in consumer protection. This program should include ultraviolet light and its effects on the skin, photosensitivity, FDA regulations, eye protection, and equipment, maintenance, and lamp compatibility at minimum.

8. Section 6 (b): Protective eyewear should meet the standards of 21 CFR 1040.20. Revise to read "...the operator shall provide the customer with protective eyewear which meets the standards of 21 CFR 1040.20..."

Industry representatives are planning to be present at the hearing tomorrow. I would welcome the opportunity to discuss the bill with you in advance of the hearing, and am available at 800-536-8255 the remainder of today, and tomorrow. Please be assured that our goals are the same, and that you have the association's full support for tanning facility regulation.

Sincerely,


Joyce C. Burdette
Executive Director

JB/me

cc: S.A.E. Board

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Attachment A

Warning Statement for Sunlamp Products as Required by 21 CFR 1040.20

"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 MAY RESULT IN SEVERE BURNS OF LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult physician before using sunlamp if you are using medications or have a history or skin problems or believe yourself especially sensitive to the sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product. "

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SUNFIT TAN & CO.
12102 W. 87th Street
Lenexa, Kansas 66215

February 18, 1992

Rep. Carol Sader, Chairman
House Committee on Public Health & Welfare
Capitol Building, Room 115-S
Topeka, Kansas 66612

Ms. Chairman and Committee Members:

With regard to House Bill 2796, Sunfit Tan & Co., respectfully submits the following comments in addition to all documentation introduced.

As a member of Suntanning Association for Education (S.A.E.), Sunfit and its Kansas affiliates are firmly committed to encouraging responsible tanning, both indoors and outdoors.

We welcome the introduction of certain elements of House Bill 2796, and accordingly, are taking the initiative to organize a Kansas chapter of S.A.E.

This chapter will have as its mission, to cooperate and enforce national, state, and local regulations that encourage standardized, professional practices within our industry.

You will find three enclosures provided by my salon. These informational guides have been incorporated into my salon practices since entering the tanning industry in June of 1990.

The first is a Client Waiver / Parental Consent form that all customers, regardless of age, must complete before starting any tanning program. Your attention is directed to the bottom of the form, where if under 18, a parent or guardian's consent is required.

The second is an informational release form, supplied to the customer during the introduction phase prior to starting the tanning program. This release form is being developed to better educate the client to the benefits and possible negative effects of indoor tanning.

The third is a helpful informational device that is supplied to each customer. This leaflet provides additional detail on safe tanning practices recommended by S.A.E. and Sunfit Tan.

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I would also like to make the following recommendations to the committee.

Elimination of B type machines that utilize pure U.V.B. ultraviolet light. These tanning devices overexpose the customer during short periods of time (1 to 5 minutes), resulting in severe cases of erythema.

All tanning facilities should be dedicated to being a full time tanning salon. As such, the facility must have a minimum of 3 beds. This will help to regulate the marginal facilities (small beauty salons, gymnasiums, dress shops, apartment clubhouses) that are not committed to professional and responsible tanning practices.

Consideration must be given to regulating the sale of tanning devices to the general public through major retail establishments.

Tanning lamp strength should not exceed a U.V.B. ratio of 4.8%.


Eyewear protection warning signs must be posted and clearly visible in each tanning room.

Timing controls must be operated and regulated by salon employees only.

The use of terrycloth towels, disinfected by commercial linen companies, should be used to provide better personal hygiene to the customer. These cloths provide better absorption in the disinfecting of bed surfaces, resulting in a higher degree of sanitation.

The record should note that Dermatologists routinely refer patients to tanning salons for the treatment of psoriasis.

Sincerely,



Michael A. Hurst
Vice President
Sunfit Tan & Co.

PHW
2-19-92
Att #7
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SUNFIT TAN & CO.

Customer: _____

It is our intention to keep you as well informed about tanning as possible. This means informing you on how to operate the equipment, and the possible negative effects of tanning as well as the obvious positive ones. The proper procedure to follow in the tanning room will be clearly explained by the attendant. Please feel free to ask any questions or voice any concerns that you might have at this time.

PLEASE FOLLOW OUR DIRECTIONS

1. Avoid Overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated overexposure can cause premature aging and skin cancer.
2. Please inform us if you are taking any sun sensitive drugs. Medications or cosmetics may increase your sensitivity to the UV rays. Consult a physician before tanning if you are taking such drugs or have a history of skin problems or believe yourself especially sensitive to sunlight.
3. Wear Protective Eyewear. Failure to wear goggles may result in severe burns or injury to the eyes.

We thank you for your cooperation and hope we can work together to provide you with the healthiest tan possible.

I have been given instructions for the proper use of the equipment and use it at my own risk. I hereby release the owners, operators, and manufacturer from any damages that I might incur due to the use of these facilities.

Signature

If Under 18, Parent/Guardian
Signature

Date

- | | |
|---|--------|
| Do you tan easily? | Y or N |
| Do you burn easily in the sun? | Y or N |
| Are you allergic to the sun? | Y or N |
| Have you had sun poisoning? | Y or N |
| Do you wear contacts? | Y or N |
| Are you 18 years or older? | Y or N |
| Do you have any contagious skin disease or any other disease? | Y or N |

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CLIENT WAIVER/PARENTAL CONSENT

6/14/77

NAME Jayne Swink HOME PHONE 635320
 ADDRESS 7704 Oakview Dr. home 66216
 PLACE OF EMPLOYMENT _____

PLEASE ANSWER THE FOLLOWING QUESTIONS TO THE BEST OF YOUR KNOWLEDGE.

- | | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. DO YOU TAN EASILY? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. DO YOU BURN EASILY IN THE SUN? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. HAVE YOU HAD ANY PRIOR SKIN DAMAGE FROM THE SUN OR IN THE USE OF A TANNING DEVICE? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. ARE YOU ALLERGIC TO THE SUN IN ANY WAY? PLEASE EXPLAIN, _____ | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. HAVE YOU HAD SUN POISONING IN THE PAST? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. DO YOU HAVE DRY SKIN? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. ARE YOU PRESENTLY UNDER A DOCTOR'S PRESCRIPTION OF DRUGS OR MEDICATION OF ANY SORT THAT COULD CAUSE SENSITIVITY TO THE SUN? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. IF FEMALE, ARE YOU PREGNANT? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. DO YOU HAVE ANY CONTAGIOUS SKIN DISEASE OR ANY OTHER TYPE OF CONTAGIOUS DISEASE AT THE PRESENT TIME? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 10. DO YOU WEAR CONTACTS? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If yes, you must remove them prior to tanning.

I acknowledge that I have read and understand the instructions for use and manufacturer's instructions for use that were provided to me by _____. I further acknowledge that I understand the above questions and have answered each question accurately and truthfully. In consideration of the services to be provided by _____ including, but not limited to, the use of tanning equipment, I for myself, my heirs, executors, administrators and assigns, hereby release and forever discharge _____, its officers, directors, agents, employees, representatives and successors thereof, from any and all actions, causes of action, claims and demands whatsoever, whether founded in fact or in law, arising from or by reason of any injury suffered by me as a result of the performance of services by _____ including use of tanning equipment, and also including injuries resulting from any act or failure to act on the part of _____, its officers, directors, agents, employees or representatives. I hereby assume full responsibility for any and all injuries and including the use of tanning equipment.

I expressly agree that this release is intended to be as broad and inclusive as permitted by the laws of this state and that if any portion of this release is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. I understand that _____ is relying on this release in agreeing to perform services, and I agree that this release shall be legally binding and that the terms of this release are contractual and not a mere recital.

I have read this release and understand the contents, and I sign this release as my own free act.

S: Jayne Swink DATE Mar 9 9,
 IF UNDER 18, PARENT/GUARDIAN'S SIGNATURE Jaime Swink
 U210 (6/89)

REGISTRATION

NAME: Swink, Jayne Student
 "new"

copy
 PH 900
 2-19-92
 Oct # 7
 7-9

Visit #	Date	Transa	Tech	Cust	Visit #	Date	Transa	Tech	Cust
1	3-5-91	SS	SS	SS	26				
2	3-20-91	SS	SS	SS	27				
3	4-21-91	SS	SS	SS	28				
4	4-6-91	SS	SS	SS	29				
5	4-15-91	SS	SS	SS	30				
6	4-25-91	SS	SS	SS	31				
7	5-7-91	SS	SS	SS	32				
8	5-18-91	SS	SS	SS	33				
9	6-12-91	SS	SS	SS	34				
10	6-21-91	SS	SS	SS	35				
11	6-21-91	SS	SS	SS	36				
12	6-21-91	SS	SS	SS	37				
13	6-21-91	SS	SS	SS	38				
14	6-21-91	SS	SS	SS	39				
15	7-9-91	SS	SS	SS	40				
16	10-19-91	SS	SS	SS	41				
17	11-30-91	SS	SS	SS	42				
18	12-07-91	SS	SS	SS	43				
19	12-07-91	SS	SS	SS	44				
20	12-07-91	SS	SS	SS	45				
21	12-07-91	SS	SS	SS	46				
22	12-07-91	SS	SS	SS	47				
23	ACC 416				48				
24					49				
25					50				

COMMENTS:
 #10 line 1 #10 line 30
 #10 line 6
 #10 line 7
 #10 line 10
 #15 line 11
 #15 line 12
 #10 line 18

HISTORY OF SUNFIT

In the fall of 1984 two Lenexa residents emerged as leaders in the tanning industry. Beginning with the opening of Sunfit Tan, Susan Macauley and Linda Sweat built a reputation for maintaining high standards for operation while providing superior customer service. As owners of tanning salon Susan and Linda recognized the importance of being in the salon and actively participating in the daily operation. They made a point of establishing in their clients a feeling of comfort and concern for their well being...

Vicki Hurst, a long time Sunfit patron and Lenexa resident, acquired Sunfit in June 1990. Recognizing the previous owner's success in the tanning industry, Vicki immediately assumed an active role in the salon's daily operation to continue providing the superior customer service that established Sunfit as the leading tanning salon in Lenexa. As an aggressive business woman, she quickly established herself in the tanning community by completely remodeling the salon, purchasing the latest tanning equipment, including the newest Wolff tanning bed - the California 30, and adding several new nail care services of which she takes a personal interest... Vicki is a licensed nail technician, graduating in the top 3 of her class at LaBaron Hairdressing Academy.

Sunfit is a member of S.A.E., Suntanning Association for Education. Mike Hurst, Vicki's husband, is certified through S.A.E.'s Tanning Training Course. Sunfit maintains their tanning lamps frequently, and uses only the most current technology.

As both a Tanning Consultant and a Nail Technician, Vicki has one additional theory for Sunfit... perfection.

Once you've tanned at Sunfit, you won't trust your tan to anyone else.

Vicki D. Hurst, President

TANNING TIPS

1. Discuss your skin type with one of our tanning consultants. Tanning works differently with different skin types.
2. If you are taking medication, check the photosensitive medication list before tanning.
3. It is mandatory that you wear FDA certified goggles while tanning. UV light can damage the eyelid and/or retina.
* Although Sunfit uses the strongest disinfectants available, it is recommended you purchase your own eyewear.
4. Do not exceed the recommended exposure time for equipment. FDA prohibits tanning more than once a day for the recommended exposure time. Successful tanning results can be achieved without overexposing the skin to UV light.
5. Use only approved indoor tanning lotions. Do not use sunscreens. Outdoor tanning lotions can damage the acrylic and block UV light from the skin.
* Sunfit recommends and sells several indoor and outdoor tanning lotions for adults and children, ask our tanning consultants for more information.
6. Tanning Accelerators & Amplifiers stimulate the melanin process and help initiate the tanning process for indoor tanning only.
7. Always apply a moisturizer to entire body after bathing. Darker tans are achieved by keeping the skin moist.

8. Apply lip balm before and after tanning to protect lips from peeling and chapping.
9. Drink plenty of fluids before and after using a tanning bed. Your skin moisture content is depleted during the tanning process.
10. Remove make-up and perfume before tanning - these can increase photosensitivity.

TANNING DEFINITIONS

ACCELERATOR Designed to increase the rate at which skin tans by providing ingredients necessary for melanin production. Works beneath the skin's surface.

AMPLIFIER Product designed to increase absorption of UV light by the skin, works on skin's surface to Immediate Pigment Darkening, IPD.

ERYTHEMA To redden, blush, and abnormal redness of the skin resulting from irritation and dilation of the capillaries, often caused from over exposure to ultraviolet light (natural or artificial).

TYROSINE The amino acid which encourages the skin to produce melanin. natural ingredient.

MELANIN A brownish-black pigment found in the skin, hair and other tissues.

6-6
P. Hurst
2-19-92
Oct 1991
9/9/91

SUNFIT TAN & Co. SERVICES

*Sunfit is the **only** tanning salon in Lenexa which is a member of S.A.E. - Suntanning Association for Education.*

- 5 Sunfit tanning beds with built in facial tanners
- 1 California 30 Wolff bed with 30 lamps
- 1 Stand-up unit with 34 lamps
- Tanning packages designed to fit every budget and schedule
- Comfort controlled atmosphere
 - spacious rooms with individual stereo headphones
- Each room is sanitized after every use
- Nail Technician offering sculptured nails, hot oil manicures and pedicure.

Gift certificates available
- Indoor and outdoor tanning lotions available for adults and children
- VIP referral programs
- Fashion clothing and jewelry
- Gift certificates available for any occasion..

Christmas, birthdays, Mother's Day, Secretary's Day, Valentine's Day...
- All equipment complies with FDA regulations
- Refreshment area
- Beauty area with accessories
- Professional tanning consultants available

Tanning Package Recommended:

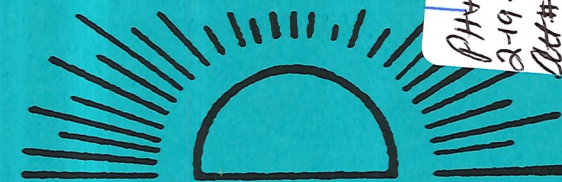
Tanning Package Purchased:

Next Appointment...

Date	Time
_____	_____
_____	_____



As Lenexa's leading tanning salon, Sunfit wishes to encourage responsible tanning, indoors and out.



Phone 2-19-92 Alt#7 8-9

Sunfit tan & Co.

Lenexa's leading
Tanning & Nail Salon

12102 W. 87th Street
Lenexa, Kansas 66215

Tanning
(913) 492-5225

Nail Services
492-5581