



TANNING ESTABLISHMENT COMPLIANCE WITH NRS 597.761 TO 597.7622

Evaluating compliance with State of Nevada regulations for tanning
equipment and recommendations for next steps.

June 2017



**NEVADA CANCER
COALITION**

NevadaCancerCoalition.org

Introduction/Background

The 2016 – 2020 Nevada State Cancer Plan identified the prevention of skin cancer through the regulation of indoor tanning as a priority focus, with the goal to:

Increase the number of enforcement mechanisms to ensure tanning salons are not providing services to youths under age 18 under Nevada Revised Statutes 597.ⁱ

Nevada became the fourth state in the nation to prohibit indoor tanning for those under 18 years of age with a law effective July 1, 2013. Here are key subsections that define the law's requirements:

- NRS 597.7615 defines “Tanning equipment” as “any device that emits ultraviolet radiation to tan human skin, including, without limitation, sunlamps, tanning booths and tanning beds.”
- NRS 597.7616 defines “Tanning establishment” as any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.”
- NRS 597.7617 Owner or operator: Prohibited acts. “An owner or operator shall not allow a person who is less than 18 years of age to use the tanning equipment of a tanning establishment.”
- NRS 597.7618 Owner or operator: Duty to post notice in tanning establishment. An owner or operator shall post in a conspicuous place in the tanning establishment a notice that states substantially the following:
 1. It is unlawful for the owner or operator of a tanning establishment to allow a person who is less than 18 years of age to use any tanning equipment.
 2. An owner or operator of a tanning establishment who violates any provision of NRS 597.761 to 597.7622, inclusive, may be subject to civil action.
 3. Any person may report a violation of NRS 597.761 to 597.7622, inclusive, to any law enforcement agency.
 4. Health risks associated with tanning include, without limitation, skin cancer, premature aging of the skin and burns to the skin.

Soon after the law's passage in 2013, toolkits were distributed to retail tanning establishments identified through Yellow Pages and an online search as offering tanning equipment use for a fee. The toolkits informed businesses of the requirements of the law and included copies of Health Notices, Warning Signs, and a sample acknowledgement form. All content on the Health Notice, Warning Sign, and sample acknowledgement form was reviewed and approved by the Nevada Attorney General's office and the signs included the official State of Nevada seal.

Since no direct regulatory oversight or enforcement was built into the law, there has been little to no follow up to confirm compliance with NRS 597.761 to 597.7622 by retail businesses that offer tanning equipment use for a fee by the public.

'Secret Shopper' Telephone Survey

To begin assessing awareness of and compliance with NRS 597, the Nevada Cancer Coalition in fall 2016 conducted a 'secret shopper' telephone survey of retail businesses that offer ultraviolet tanning device use for a fee by the public. The Nevada telephone survey replicated the telephone survey conducted in California.ⁱⁱ The caller, a female University of Nevada, Reno senior student in the School of Community Health Sciences, worked from a list updated by the Nevada Division of Public and

Behavioral Health from the original 2013 list. The survey was conducted in September and included seasonally appropriate questions. The 2017 survey frame included:

- 134 salons, gyms, resorts, athletic clubs or other businesses identified as offering tanning equipment use for a fee
- 81 of the 134 businesses offered tanning beds/booths
 - 50 were successfully contacted by phone
 - 31 did not answer or the number was no longer in service
- 53 offered only spray tanning
- Locations such as apartment complexes and other non-retail establishments that provide tanning beds/booths for public use as an amenity for residents were not included in the 'secret shopper' master list as these locations are not readily identified or known.

The following questions were asked of each tanning establishment representative reached by phone:

1. Hi, I'm 17 and have never used a tanning booth before. I want to keep my base tan from summer. Can I use your tanning booths?
2. How many times can I come in and tan per week?
3. I burn pretty easily in the summer. Are there any dangers or risks of tanning in the beds?
4. I've heard both pros and cons about tanning. Is tanning good for me in any way?
5. My mom had skin cancer. Is it still ok for me to tan?

Table 1: Responses from 50 businesses regarding tanning bed use by minors

Under-18 Use Allowed

	Total
Number of Businesses	9
# that mentioned risks	5
# that mentioned no risks	4
# that mentioned benefits	5
# that stated no benefits	4

Only 18+ Use Allowed

	Total
Number of Businesses	41
# that mentioned risks	27
# that mentioned no risks	14
# that mentioned benefits	32
# that stated no benefits	9

Selected summary of responses to Questions 1 – 5 from among all businesses reached by phone:

Question 1: Hi, I'm 17 and have never used a tanning bed before. I want to keep my base tan from summer. Can I use your tanning beds?

- Yes, you only have to be 16
- Yes, anyone over 18 can come with you to provide consent
- Yes, allowed but only with parental consent

Question 2: How many times can I come in and tan per week?

- Unlimited
- Depends on your skin. Come in to discuss. Start low and work up.
- Every 12 hours

Question 3: I burn pretty easily. Are there any dangers or risks of tanning in the beds?

- Beds are safer than the sun. Risks are same as overexposure to sun/sunburn
- Overexposure, sunburn, skin cancer
- “Slim to none when it comes to getting skin cancer.”

Question 4: I’ve heard both pros and cons about tanning. Is tanning good for me in any way?

- Provides Vitamin D and can clear psoriasis
- Can maybe help with or clear some skin conditions
- Releases endorphins

Questions 5: My mom had skin cancer. Is it still OK for me to tan?

- A lot of dangers are just hyped up. It is a fact that it is impossible to get skin cancer from a tanning bed
- Yes, use lotion as a buffer and reduce time/frequency of the dose
- Can’t say/don’t know

Memorable quotes from ‘secret shopper’ phone survey tanning establishment calls, from among all respondents:

“My mom’s been tanning for 30 years daily and hasn’t gotten cancer.”

“You get skin cancer from burning, not just tanning regularly.”

“People burn from UVC rays, which aren’t in our beds.”

“Due to FDA law, we’re not able to disclose any dangers or benefits of bed use.”

“It’s basically impossible to burn in the beds.”

“Tanning basically kills your skin.”

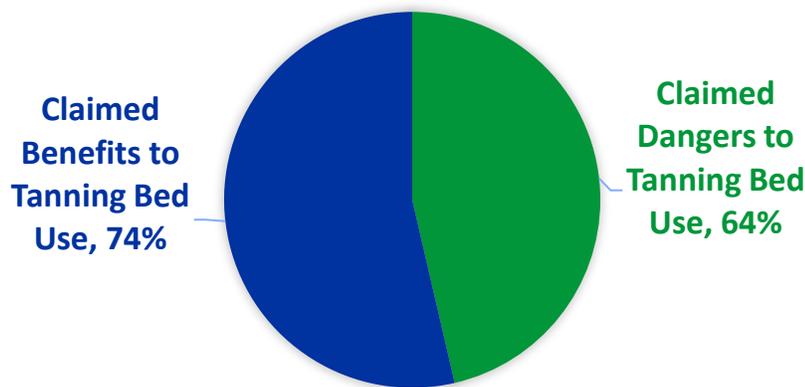
Memorable quotes from ‘secret shopper’ phone survey tanning establishment calls, from respondents who said under-18 tanning is allowed:

“We just take care of your skin. (Tanning beds) won’t give you skin cancer. They’re better than being in the actual sun. You only have to be 16 years old.”

“Fact: It’s impossible to get cancer from tanning salons.”

“All the benefits you get from the sun, you aren’t getting in the beds. No good rays come from tanning beds.”

Figure 1: Health Risks/Benefits Responses from 50 Establishments



In-Person Visits

Based on responses and comments from the nine non-compliant businesses, in-person visits were made to eight of the nine locations in May and June 2017. The visits were friendly and conversational and were intended to provide resources, education, and encouragement for compliance with NRS 597.

A small sample of other known businesses in Washoe County that offer UV-tanning equipment were also visited with the intent to assess compliance with NRS 597-required signage and acknowledgement form use. These visits were conducted in the same manner.

Objectives:

- Visit non-compliant facilities (based on phone survey responses) to assess:
 - Physical location compliance with NRS 597 signage
 - Use of appropriate risk acknowledgement forms
 - To ask, in person, if under 18 tanning is allowed
- Visit a small sample of other facilities to assess:
 - Physical location compliance and front-desk personnel knowledge of NRS signage and risk acknowledgement form requirements
 - To ask, in person, if under 18 tanning is allowed
- Provide non-compliant facilities with tanning establishment toolkit and education about NRS 597

Seven non-compliant facilities were identified in Clark County, and one each identified in Douglas County and Washoe County. Representatives from Nevada Cancer Coalition visited six of the seven non-compliant Clark County facilities from May 11-12, 2017. The Douglas County and Washoe County non-compliant establishments were visited during the first three weeks of June 2017. Six additional Washoe County facilities were also visited during this time.

Clark County In-Person Visits

When in-person visits were conducted at six Clark County tanning establishments identified as allowing under-18 tanning in a fall 2016 telephone survey, results conflicted with the phone survey in that front desk personnel at these businesses claimed instead to not allow underage tanning. Only two of the six establishments displayed required Health Notice and Warning signage. Front desk personnel at all six establishments claimed to require a signed acknowledgement form about potential risks associated with UV-tanning bed use on a client's first visit.

Communication was a barrier with one business as available staff did not speak English and no one was available to translate. The owner of another business said she had never received the Nevada Cancer Coalition toolkit and was not aware she needed to post signage.

Front desk personnel at all six Clark County businesses visited in person accepted Health and Warning signage, a sample acknowledgement form, and copy of NRS 597.

Table 3: In-person visits to Clark County non-compliant establishments

	Total
Clark County non-compliant establishments per phone survey	7
# non-compliant establishment visits	6
# with Notice signage prominently posted	2
# with Warning signage posted near tanning equipment	3
# with signage from NCC Tanning Toolkit	3
# with ads making claims of health benefits	No ad claims observed
Does establishment require signed acknowledgement before tanning?	6 (per front desk personnel)
Does acknowledgement form enumerate tanning risks including the development of skin cancer?	5 – Yes (per front desk personnel)
Front desk personnel “Yes” responses to the question: Do you have any age restrictions on who can use your tanning equipment?	6
Front desk personnel responses saying only people aged 18+ are allowed to tan:	6
Establishments offered and accepted notice and warning signage, education about NCC and free online downloads for notice and warning signage, acknowledgement forms, and copy of NS 597	6

Washoe County In-Person Visits

The one Washoe County tanning establishment identified in the telephone survey as allowing under-18 tanning did not have required signage in place when visited in person. Of seven total Washoe County tanning establishments visited in-person, only one had NRS-required Health Notice and Warning signs in place. All Washoe County tanning establishments visited in June 2017 indicated they did not allow anyone under age 18 to use their tanning equipment and required a signed acknowledgement form by first-time users.

Table 3: In person visits to Washoe County tanning establishments

	Total
Washoe County establishments visited	7
Washoe County non-compliant establishments (per phone survey)	1
# with Health Notice signage prominently posted	1
# with Warning signage posted near tanning equipment	1
# with signage from NCC Tanning Toolkit	1
# with ads making claims of health benefits	No ad claims observed
Does establishment require signed acknowledgement before tanning?	7
Does acknowledgement form enumerate tanning risks including the development of skin cancer	5
Front desk personnel “Yes” responses to the question: Do you have any age restrictions on who can use your tanning equipment?	7
Front desk personnel responses saying only people aged 18+ are allowed to tan:	7
Establishments offered and accepted notice and warning signage, education about NCC and free online downloads for notice and warning signage, acknowledgement forms, and copy of NRS 597	7

Memorable Quotes from Washoe County tanning establishment managers during in-person visits:

"Safe tanning is all about moderation. Building a base tan is like taking an antibiotic. It will gradually build your immunity."

"Our tanning beds were invented and designed by a doctor. They eliminate UVB rays so they're safer for the skin than being outside in the sun."

Douglas County In-person Visit

One Douglas County tanning establishment located in Stateline, Nevada indicated on the phone survey that under-18 tanning was allowed. This establishment was visited in person on June 17, 2017. No Health Notice or Warning signs were posted and the owner said she does not require clients to sign an acknowledgement form. She said she has been in business for 25 years.

Memorable Quotes from Douglas County tanning establishment owner:

"Any age can tan, but my clients must be at least 16 years old."

"Sunscreen causes cancer. Tanning beds do not."

"California is the state with an age requirement. I'm in Nevada."

This business owner accepted the toolkit provided by Nevada Cancer Coalition personnel.

Summary

Based on the 'secret shopper' phone survey results, the majority of Nevada establishments offering use of tanning equipment to the public for a fee adhere to the NRS 597.7617 requirement prohibiting use of tanning equipment by youth under age 18. However, answers to questions concerning health risks associated with tanning equipment use indicate there is considerable misinformation being shared.

In-person visits to 14 tanning establishments in southern and northern Nevada – eight of which indicated in a phone survey that youth under age 18 may use their equipment – showed all but one front desk staff person or owner in these locations told a visitor tanning is only allowed for those 18 years of age or older. The majority of these retail tanning establishments do not post Health Notice and Warning signs as required by NRS 597.7618.

Not all acknowledgement forms were received and/or reviewed. Two reviewed did not include skin cancer as a potential risk of using tanning equipment as required in NRS 597.7618.

Some businesses claimed they were not familiar with the entirety of NRS 597.7618 and did not know they were required to post signage.

Conclusion

In-person visits to a small sampling of tanning establishments showed most did not prominently post a Health Notice or Warning Signs near tanning equipment. It is clear that further education is needed to inform tanning establishment owners of NRS 597 regulations concerning their business.

During the 2017 legislative session SB 219 was introduced to:

- Provide State of Nevada Radiation Control Program with statutory authority to control non-ionizing radiation devices, specifically UV-emitting tanning devices made available for adult public use;
- Define “non-ionizing radiation” in statute;
- Establish a program for the registration of non-ionizing UV-emitting tanning devices; and,
- Protect both the operator and user by ensuring that tanning devices are used and operated in accordance with any applicable regulations, and with due regard for compatibility with federal programs.

Unfortunately, this legislation died in committee due to concerns about the attached fiscal note and complications with bill amendments. This leaves Nevada residents with little to no oversight of retail establishments offering tanning equipment use for a fee, and no oversight whatsoever for tanning equipment offered as an amenity in locations such as apartment complexes.

Recommendations

In the 2019 legislative session Nevada Cancer Coalition, working with partners throughout the state, will again seek to increase enforcement mechanisms to ensure tanning establishments are not providing services to youths under age 18 as required by NRS 597. A system for periodic assessment of compliance and education should be included in any regulatory legislative efforts. In the meantime, the following is recommended:

- Contact by mail all retail establishments identified as offering tanning equipment use for a fee with information and education about NRS 597.761 to 597.7622. Information will include:
 - Online access to download:
 - NRS 597.761 to 597.7622
 - Health Notice
 - Warning Signs
 - Sample Acknowledgement Form
 - Periodically visit known tanning establishments to assess compliance and offer educational materials
- Educate Nevada teens and parents:
 - About the dangers and health consequences of indoor tanning
 - On alternatives to indoor tanning
 - How to report a tanning establishment for violation of the law

Acknowledgements

Planning, facilitation, and reporting for the Nevada Tanning Establishment Project by Christine Thompson of Nevada Cancer Coalition and Lily Helzer from the Nevada Division of Public and Behavioral Health Comprehensive Cancer Control Program.

Thank you to University of Nevada, Reno undergraduate public health interns Morgan Self for conducting the 'secret shopper' phone survey and analysis of responses and to Tiffany Guy for updating the list of tanning establishments and building survey tools.

This project is funded by the Nevada Division of Public and Behavioral Health Comprehensive Cancer Control grant number NU58DP003929-05.

ⁱ 2016 – 2020 Nevada Cancer Plan

ⁱⁱ California Telephone Survey, Grewal, S., et al. (2013). Compliance by California tanning facilities with the nation's first statewide ban on use before the age of 18 years. *Journal of the American Academy of Dermatology*, 69(6), 883-889.