



June 27, 2014

Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711

Dear Members of the Sunset Advisory Commission:

On behalf of the American Academy of Dermatology Association (AADA), American Society for Dermatologic Surgery Association (ASDSA), Texas Dermatological Society (TDS), and AIM at Melanoma, we are writing in opposition to the recommendations set forth in the June 2014 Sunset Advisory Commission Staff Report concerning the Department of State Health Services. Issue 3 recommends eliminating enforcement of the indoor tanning bed facility regulations, among other regulatory programs.

Despite the tremendous legislative success achieved during the 2013 legislative session that resulted in prohibiting minors under 18 from using indoor tanning, we are extremely concerned that the recommendation would send a message that indoor tanning is safe and would lead to an increase in the number of teens and adults who use indoor tanning facilities. If adopted, indoor tanning facilities may elect to ignore the indoor tanning law requirements since there would no longer be a mechanism to enforce inspections. Minors could continue to use indoor tanning beds. Simply put, the recommendation would prevent the Texas Legislature from achieving its goal to reduce skin cancer rates among minors.

For the reasons outlined below, we respectfully disagree with the report's conclusion that "consumers can access enough information to make informed choices" regarding indoor tanning and that the "risk of disease spread from physical contact with tanning equipment is minimal." Alternatively, we recommend moving the regulation of indoor tanning to the Texas Department of Licensing and Regulation rather than deregulating this industry.

Indoor tanning industry consistently misleads customers

The indoor tanning industry has a well-documented history of misleading the public to believe that indoor tanning is safe and even provides health benefits. In 2012, Texas Attorney General Abbott resolved its enforcement action against a tanning operation, Darque Tan. According to an investigation and referral by the Texas Department of State Health Services, Darque Tan's advertising campaign and online videos improperly claimed that customers would benefit from increased Vitamin D levels resulting in a reduction in cancer risks. Texas law authorizes indoor

tanning salons to advertise that the use of indoor tanning beds darkens the skin; however, the salons cannot claim that indoor tanning improves one's health.

In January 2010, the Federal Trade Commission charged the Indoor Tanning Association (ITA) with making false health and safety claims about indoor tanning. The ITA is now prohibited from making any false health claims, misrepresenting any tests or studies, and cannot provide deceptive advertisements to its members. Moreover, future advertisements from the association must contain disclosures regarding the risk of developing skin cancer and disclosures about vitamin D.

In February 2012, the US House of Representatives Energy and Commerce Committee released an investigative report detailing false and misleading health information provided by the indoor tanning industry. This investigation revealed that salons described the suggestion of a link between indoor tanning and skin cancer as a "myth," "rumor," or "hype." It also revealed that four out of five tanning salons falsely claimed that indoor tanning is beneficial to a young person's health. In fact, salons used many approaches to downplay the health risks of indoor tanning, including blaming the use of sunscreen as a reason for rising rates of skin cancer in the US. Many of the salons tried to validate the safety of indoor tanning by alluding to the fact that unsafe practices would not be allowed by the government. The Committee's report reconfirms that stronger state and federal laws are needed to provide oversight of this industry.¹

Despite the literature and efforts to inform the public of the dangers of indoor tanning, survey data indicate use of these devices increases with each year of adolescence: indoor tanning rates among 14-, 15-, 16-, and 17-year-old girls in 2010 were 5 percent, 13.6 percent, 20.9 percent, and 26.8 percent, respectively. A 2012 nationwide study, "Knowledge is not power: Knowing risks of tanning does not impact tanning behaviors in members of sororities on a Big 12 campus" also rejects the report's conclusion that access to information will lead to informed choices. Thirty-two percent of white teenage girls and young women had used a tanning bed in the past year, while 81% had tanned outdoors in the past year. The women in the study stated they do so for cosmetic enhancement, although they are well aware of the associated health risks.² It is estimated that on an average day in the United States, more than 1 million people tan in tanning salons.³

A 2013 study on the indoor tanning industry's compliance with an under 18 age restriction law concluded that additional enforcement may be required in order to accurately disclose the risks associated with indoor tanning and to prevent claims of unproven health benefits.⁴ Although 77 percent of the salons complied with the age restriction law, most facilities denied any dangers from ultraviolet tanning (61%) and made unlawful claims of specific health benefits, including vitamin-D production (44%), skin disease treatment (22%), prevention of future sunburns (17%), and prevention or treatment of depression (8%).

For the reasons outlined above, removing the enforcement mechanism will harm the public despite the plethora of information warning the public of the risks associated with indoor tanning. Additionally, the Staff Report's recommendation will erase any recent progress since

¹ US House Committee on Energy and Commerce. False and Misleading Health Information Provided to Teens by the Indoor Tanning Industry Investigative Report. <http://democrats.energycommerce.house.gov/sites/default/files/documents/Tanning%20Investigation%20Report%202.1.12.pdf>, accessed 20 Feb 2012.

² Hovenic W, et al. Knowledge is not power: Knowing risks of tanning does not impact tanning behaviors in members of sororities on a Big 12 campus. *J Am Acad Dermatol* 2012; [Volume 66, Issue 4](#), Supplement 1, Page AB85.

³ Whitmore SE, Morison WL, Potten CS, Chadwick C. Tanning salon exposure and molecular alterations. *J Am Acad Dermatol* 2001;44:775-80.

⁴ Grewal SK, Haas AF, Pletcher MJ, Resneck JS Jr. Compliance by California tanning facilities with the nation's first statewide ban on use before the age of 18 years. *J Am Acad Dermatol* 2013; Dec; 69(6):883-889.e4.

the enactment of the under 18 law by signaling to salons that teens can use their facilities without repercussion.

Indoor tanning is no longer only a risk factor for melanoma and other skin cancers

Although the Staff Report concludes that there is minimal risk of disease spread from physical contact with indoor tanning equipment, there is sufficient evidence that the public's risks extend beyond skin cancer. A 2010 study investigated "top rated" indoor tanning salons by obtaining cultures from tanning beds to determine its sanitary status. Pathogens found in the tanning beds were associated with serious skin infections, resulting in a legitimate concern for pathogen transmission and cutaneous infection. The researchers concluded that there is a need for strict, enforceable sanitation regulations for tanning salons in order to prevent the transmission of pathogenic organisms that could cause serious health problems.⁵

Another risk associated with indoor tanning is burns. The FDA estimates that there are approximately 3,000 hospital emergency room cases a year resulting from exposure to indoor tanning beds and lamps.⁶ A survey of adolescent tanning bed users found that nearly 58 percent had burns due to frequent exposure to indoor tanning beds and lamps.⁷ Inadequate eye protection in a tanning bed can lead to a condition known as photokeratitis, which is similar to a sunburn of the cornea. Symptoms include tearing, pain, swollen eyelids and decreased or hazy vision. Enforcement of the regulations is a way to ensure that the salons will offer protective goggles to patrons. Lastly, an increasing number of studies suggest indoor tanning may be addictive.⁸ A study published in June found that chronic exposure to ultraviolet radiation triggers the release of endorphins that function through the same biological pathway as highly addictive opiate drugs.⁹

Despite the public's access to information that allows them to make informed choices concerning the risks associated with indoor tanning, the public has been misled to believe otherwise. Additionally, indoor tanning poses public health risks that include infections, burns, and addiction. As a result, we recommend moving the regulation of indoor tanning to the Texas Department of Licensing and Regulation rather than deregulating this industry. We appreciate the opportunity to provide written comments on this important public health issue. For further information, please contact Lisa Albany, Assistant Director, State Policy for the AADA, at LAlbany@aad.org or (202) 712-2615.

Sincerely,

American Academy of Dermatology Association
American Society of Dermatologic Surgery Association
Texas Dermatological Society
AIM at Melanoma

⁵ Russak J, Rigel D. Tanning bed hygiene: Microbes found on tanning beds present a potential health risk. *J Am Acad Dermatol* 2010; Volume 62, Issue 1, Pages 155-157.

⁶ The FDA - accessed September 2009 at <http://www.fda.gov/Radiation-EmittingProducts/RadiationEmittingProductsandProcedures/HomeBusinessandEntertainment/ucm116447.htm>

⁷ Cokkinides V, Weinstock M, Lazovich D, Ward E, Thun M. Indoor tanning use among adolescents in the US, 1998-2004. *Cancer* 2009; 115: 190-198.

⁸ Fisher DE, James WD. Indoor tanning--science, behavior, and policy. *N Engl J Med* 2010;363:901-3.

⁹ Fell, Gillian L. et al. Skin β -Endorphin Mediates Addiction to UV Light. *Cell*, 2014: Volume 157, Issue 7, 1527 - 1534.