

What's on the Horizon in Tanning Bed Legislation? It Depends on You!

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UV radiation–based indoor tanning (uvIT) remains popular among teenaged females despite growing evidence associating indoor tanning beds with an increased incidence of melanoma at more advanced stages. To curb this disturbing trend, 26 states already have enacted various forms of legislation to educate families on the dangers of indoor tanning and dissuade teenagers from utilizing uvIT. Only complete bans on uvIT are effective in changing a teenager's behavior; therefore, current legislative efforts are aimed at better educating adolescents and their families on the dangers of uvIT as well as enacting complete bans on uvIT for individuals younger than 18 years. Achieving these goals largely depends on physicians acting as leaders and advocates for patient safety as well as on the medical and public health communities across all states. *Cosmet Dermatol.* 2011;24:560-564.

RECENT EVIDENCE OF THE DANGERS OF UV RADIATION–BASED INDOOR TANNING

Evidence of the dangers associated with indoor tanning and the need for strict legislation limiting access to tanning facilities for minors has strengthened in the last year. Three major studies reported a strong link between UV radiation–based indoor tanning (uvIT) and the development of melanoma. One large population-based case-control study conducted in Minnesota revealed that an individual's risk for melanoma increased with recurrent use of indoor tanning, regardless of whether frequency was measured in hours, sessions, or years.¹ Another study

found that use of tanning beds was associated with an increased risk for early-onset melanoma.² The third major study indicated a correlation between the introduction of tanning salons to new populations and the sharp increase in the incidence of melanoma that follows.³ There is no question today that uvIT at a young age is associated with the development of melanoma.

Despite the clear medical risks that are associated with indoor tanning, teenagers continue to utilize uvIT facilities at alarmingly high rates. In the United States, more than 1 million people visit tanning salons every day⁴; females constitute almost 70% of this group, most aged 16 to 29 years.⁵ Approximately 40% of adolescent girls aged 16 and 17 years in the United States utilize indoor tanning salons,⁶ and it has been reported that 26% to 59% of adolescent girls experience burns or other skin injuries from indoor tanning, which further increases their risk for melanoma.^{7,8} Multiple studies have provided psychological and biological evidence of addiction playing a role in an individual's desire to continue tanning despite

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knowledge of the risks. For example, administration of nal-trexone to frequent indoor tanners resulted in the development of withdrawal symptoms and diminished preference for UV light.⁹⁻¹¹ A recent study of frequent indoor tanners also revealed increased perfusion to areas of the brain associated with reward pathways in response to uvIT.¹¹ The combination of increasing rates of melanoma and increasing evidence of addiction make today's indoor tanning comparable to cigarettes in the 1950s.

RECENT HISTORY OF INDOOR TANNING BED REGULATION ACROSS THE WORLD

In 2007, the International Agency for Research on Cancer published a meta-analysis revealing that first use of uvIT before 35 years of age is associated with a relative risk of 1.75 (95% confidence interval, 1.35-2.26) for melanoma.¹² Each epidemiologic study of this age group (0-35 years) reviewed by the agency showed an increased relative risk for melanoma with early use of indoor tanning beds.¹² In 2009, this finding led the World Health Organization (WHO) to classify uvIT as a group 1 carcinogen, or known carcinogen, which also includes cigarettes, mustard gas, and asbestos. The WHO also recommended strict legislation prohibiting the use of indoor tanning for individuals younger than 18 years, regardless of parental permission.^{12,13} This report spurred an increased interest across northern Europe, Australia, New Zealand, North America, and South America to seek legislation restricting uvIT, with a focus on young individuals. Since the release of this report, France, Belgium, Germany, Scotland, Spain, Portugal, and the province of New Brunswick in Canada have enacted legislation limiting the use of uvIT for people younger than 18 years. Additionally, Australia banned access to tanning beds for individuals younger than 18 years in its 5 major states; Britain banned indoor tanning for teenagers; and Brazil completely banned the use and sale of uvIT for cosmetic purposes nationwide for all individuals, regardless of age.¹⁴

RECENT HISTORY OF INDOOR TANNING BED REGULATION IN THE UNITED STATES

The United States has been slower than other countries in its legislative response to the findings and recommendations of the WHO. Youth access laws at the state level currently enforce minimum age limits; requirements for parental accompaniment, parental consent, or physician authorization; posting of warning signs and written warning statements; and various penalties for tanning facilities that violate the law.¹⁵ In 2005, just prior to publication of the International Agency for Research on Cancer study,

21 states had laws in place to address access to tanning facilities for minors; 6 states established minimum age limits.¹⁶ In 2010, the number of states with uvIT laws for minors increased to 26, with 10 states establishing minimum age limits ranging from 13 (North Carolina) to 16.5 years (Texas).¹⁵ Although individual states have made great strides in restricting uvIT for minors, the overall stringency of state-level youth access laws across the country still has a long way to go to meet the recommendations of the WHO, the American Medical Association, the American Academy of Dermatology, the American Academy of Pediatrics, and other medical organizations to ban indoor tanning in youths younger than 18 years.

In the United States, notable progress also has been made at the federal level. On January 26, 2010, the Federal Trade Commission prohibited the Indoor Tanning Association (ITA), the major national lobbying organization for uvIT, from making false health claims or providing deceptive advertisements to consumers.¹⁷ The ITA also was required to include disclosures reporting the risk for developing skin cancer from the use of tanning devices in their advertisements. Prior to this settlement, ITA advertisements often included statements such as "indoor tanning poses no danger," "indoor tanning is approved by the government," "indoor tanning is safer than tanning outdoors," "research shows that vitamin D supplements may harm the body's ability to fight disease," and "enjoy the sun on doctor's orders."¹⁷ Unfortunately, this settlement does not apply to other industry organizations and indoor tanning businesses, which continue to promote dangerous misinformation in their advertisements.

In 2010, a 10% federal excise tax on indoor tanning services also was signed into law as part of the Patient Protection and Affordable Care Act.¹⁸ This tanning tax substituted a tax on cosmetic procedures that was proposed as part of the US Senate's health system reform legislation. Similar to the sin tax on cigarettes, the tanning tax reinforces the message that uvIT is not safe and gives consumers, including teenagers, a financial reason to avoid utilizing the service.

WHERE WE NEED TO GO

Recent studies that examined influences on indoor tanning behavior among adolescents found that, short of a complete ban on uvIT, state policies have almost no effect.¹⁹⁻²¹ Factors that seemed to influence indoor tanning use among minors included proximity to indoor tanning salons as well as having parents and/or friends who utilize tanning facilities.^{20,21} Efforts to protect adolescents from the dangers of uvIT need to focus on complete bans, similar to alcohol and tobacco laws. At the same time, families and communities need to be educated about the

dangers of uvIT and directed toward safer alternatives for sunless tanning (ie, dihydroxyacetone).

Advocacy efforts at the federal level should support recent legislative achievements as well as promote awareness of and protect consumers from the dangers of indoor tanning. Despite the progress that has been made, the ITA is seeking repeal of the tanning tax, with claims that it is unpopular and unfair, and has begun a large lobbying effort that includes a Web site and political action committee²²; therefore, physicians must continue to remind US legislators about the important preventative and educational value of the current federal tanning tax to protect patients of all ages from the dangers of uvIT.

Despite advances in technology and growing knowledge of the harmful effects of UV radiation in humans, the US Food and Drug Administration (FDA) has not updated the standards that govern tanning bed use since 1985; therefore, the FDA must reexamine current standards to determine if they are appropriate considering the known risks of indoor tanning. Tanning beds currently are classified as class 1 medical devices, which means the potential harm they pose to users is minimal according to the FDA; this category also includes Band-Aids, tongue depressors, and latex gloves. In 2010, the FDA's Medical Devices Advisory Committee recommended that tanning lamps and beds should no longer be class 1 medical devices. Representative Carolyn Maloney (Democrat, New York) introduced the Tanning Bed Cancer Control Act of 2010,²³ calling for the FDA to reexamine the classification of indoor tanning beds. The legislation did not pass but was reintroduced this year as a bipartisan bill (HR 1676)²⁴ sponsored by Representatives Maloney and Charlie Dent (Republican, Pennsylvania).

PENDING LEGISLATION RELATED TO INDOOR TANNING

The American Academy of Dermatology Association (AADA) is a branch of the American Academy of Dermatology that advocates for dermatologists and their patients at the state and federal levels. As one of its many functions, the AADA tracks all pending state and federal laws that are relevant to dermatology.

In 2011, the AADA tracked 46 pieces of legislation in 26 states that related to the indoor tanning industry,²⁵ including 36 bills that aimed to strengthen and/or create indoor tanning laws, 5 that specifically encouraged public education (ie, skin cancer awareness days), and 5 that had the potential to weaken current indoor tanning laws.

State Bills

Some state bills that are currently active have the potential to hinder the advancement of stricter indoor tanning

laws; they contain deceptive titles and often are the result of an oversight in the original draft of a bill that was not necessarily intended to affect tanning laws.

Nebraska LB 252 (Change Powers and Duties and Provide a Sales Tax Exemption Relating to Wyuka Cemetery)—The original draft of LB 252 would have repealed the indoor tanning tax in Nebraska; however, the bill was amended in the Senate, replacing the original language so that the tanning tax remains. It passed in the 2011 legislative session as amended, leaving the tax intact.²⁶

Nebraska LB 534 (Phototherapy Practice Act)—The passage of LB 534 would have allowed individuals 17 years and older to become registered phototherapists with the ability to administer UV light therapy as certified medical professionals.²⁷ The AADA and Nebraska Dermatology Society testified and provided written comments to Nebraska legislators in March 2011, emphasizing that only licensed physicians should be permitted to offer medical services such as phototherapy.²⁸ The bill was postponed indefinitely.

New Hampshire HB 446 (Repealing the Authority for Regulation of Certain Professional Occupations)—The passage of HB 446 would have repealed state oversight authority for indoor tanning facilities. The AADA opposed HB 446 and ultimately the bill did not pass.²⁹

Massachusetts HB 2372 (An Act Further Regulating Tanning Facilities)—With the passage of HB 2372, individuals younger than 14 years would have been prohibited from using uvIT facilities.³⁰ This bill seemed to be aimed at protecting consumers, but it actually was proposed as an attempt by the indoor tanning industry to pass a bill with lesser restrictions on minors than the Senate bill (S 1175),³¹ which holds the same title, is more stringent, and prohibits individuals younger than 16 years from using uvIT facilities. The AADA and Massachusetts Academy of Dermatology support S 1175 and oppose HB 2372.

Federal Bills

At the federal level, there are 3 currently active bills related to indoor tanning. Physicians and patients across the country are encouraged to contact their legislators regarding these bills. The National Council on Skin Cancer Prevention and the AADA Web sites make contacting representatives a straightforward and convenient process by providing action links for advocates (<http://www.skincancerprevention.org/advocacy/get-involved> and <http://aada.convio.net>, respectively).

As previously mentioned, the Tanning Bed Cancer Control Act of 2011²⁴ is a bipartisan bill that was introduced by Representatives Maloney and Dent and calls on the FDA to reexamine its current classification of indoor tanning beds as class 1 devices. The FDA's Medical Devices

Advisory Committee recommends reclassifying tanning beds as either class 2 or class 3 devices, regardless of the wavelength of UV radiation that is emitted. A higher classification would make all newly developed devices subject to premarket surveillance and evaluation. The bill also directs the FDA to establish performance standards that determine the strength of UV rays that can be emitted and the recommended amount of time that consumers should use the device. This bill is actively supported by the AADA, the American Academy of Pediatrics, the American Academy of Ophthalmology, the American Cancer Society Cancer Action Network, the American College of Physicians, the American Congress of

Obstetricians and Gynecologists, the American Medical Association, the American Osteopathic Association, the Melanoma Research Foundation, the National Council on Skin Cancer Prevention, and the Skin Cancer Foundation.

There also are 2 pending bills that aim to repeal the 10% tax on indoor tanning passed in the Patient Protection and Affordable Care Act that also require attention from advocates: (1) To Amend the Internal Revenue Code of 1986 to Repeal the Excise Tax on Indoor Tanning Services (HR 2092),³² which was introduced by Representative Michael Grimm (Republican, New York), and (2) To Amend the Internal Revenue Code of 1986 to Repeal the Excise Tax on Indoor Tanning Services

Online Advocacy Resources

- **<http://www.aad.org/member-tools-and-benefits/aada-advocacy>**
The AADA advocacy Web site provides information on state, federal, and regulatory affairs related to dermatology
- **<http://www.aad.org/media-resources/public-service-advertisements/view-psa>**
As part of its Skin Cancer Reduction: Intervention Plan for Tomorrow (SCRIPT) program, the AAD created a series of powerful public service advertisements that reveal the effect melanoma had on a young woman, her family, and friends
- **<http://www.aad.org/member-tools-and-benefits/media-relations-toolkit>**
The AAD Web site also provides useful tips and resources for discussing the risks of indoor tanning with the media
- **<http://aada.convio.net>**
For members of the AAD, the AADA's Dermatology Action Network provides "action links" and other resources to make contacting state and federal legislators as convenient and straightforward as possible. Access to the site requires an AAD username and password
- **<http://www.skincancerprevention.org>**
The National Council on Skin Cancer Prevention is a major advocacy resource for more than 45 organizations dedicated to skin cancer prevention
- **http://www.cdc.gov/cancer/skin/what_cdc_is_doing/toolkit.htm**
The Sun Safety for America's Youth Toolkit is part of the Centers for Disease Control and Prevention's National Comprehensive Cancer Control Program for skin cancer prevention advocates. The toolkit includes a range of resources including links to national and local partners in skin cancer prevention advocacy
- **<http://www.tantoday.com/forums/>**
TanToday, an online business forum for tanning salons, provides insight for physicians regarding news, advertising, and other topics related to the tanning industry
- **<http://www.theita.com>**
The Indoor Tanning Association's Web site offers information on tan tax regulations and state legislation from the perspective of tanning salon owners
- **<https://smarttan.com>**
Smart Tan is a major resource for the tanning industry that provides news, information on products, and training opportunities for indoor tanning salon owners
- **http://www.house.gov/content/learn/legislative_process; <http://www.senate.gov/reference/resources/pdf/legprocessflowchart.pdf>**
The US Senate Web site offers online resources describing the legislative process for federal laws, and the House of Representatives also provides a flowchart mapping out the steps by which a bill becomes a law

Abbreviations: AADA, American Academy of Dermatology Association; AAD, American Academy of Dermatology.

(S 1278),³³ which was introduced by Senator Olympia Snowe (Republican, Maine). The AADA, along with 85 other advocacy groups, sent letters of opposition to both members of congress, and the AADA is in active opposition of this bill. As medical experts and advocates for patients, all physicians are encouraged to contact their representatives to voice the importance of the preventative and educational value of the indoor tanning tax from their perspective as physician experts and patient advocates. There are several helpful advocacy resources available online (Table).

CONCLUSION

In the United States, uvIT is a \$5 billion industry, making it a slow and difficult process to change indoor tanning laws. For this reason, a nationwide ban on indoor tanning for individuals younger than 18 years of age will be especially challenging. Physicians who are interested in advocating for their patients should collaborate with organizations experienced in patient advocacy to achieve this goal. Excellent organizations with a commitment to protecting patients from the dangers of indoor tanning at the state level include state medical and dermatology societies, the AADA, and the American Academy of Pediatrics. All physicians should get involved with local and national organizations to advocate for a ban on indoor tanning by minors. There has been an explosion of scientific evidence on the risks of indoor tanning in the last year as well as notable legislative success; momentum is on our side.

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