

DATE: August 15, 2012

REPORT TITLE: **RESTRICTING THE USE OF COMMERCIAL INDOOR TANNING EQUIPMENT BY MINORS**

FROM: Janette Smith, Commissioner of Health Services
 David L. Mowat, MBChB, MPH, FRCPC, Medical Officer of Health

RECOMMENDATION

That a by-law to regulate the use of commercial tanning equipment including a prohibition for persons under 18 years of age be presented for enactment;

And further, that the report of the Commissioner of Health Services and the Medical Officer of Health, dated August 15, 2012, titled "Restricting the Use of Commercial Indoor Tanning Equipment by Minors" and accompanying by-law be forwarded to the Region's three area municipalities to request that area municipal Councils enact business licensing requirements for tanning facilities.

REPORT HIGHLIGHTS

- Skin cancer is the most common form of cancer. In Ontario, an estimated 35,000 new cases of skin cancer were diagnosed in 2011, accounting for approximately 1/3 of all skin cancer diagnoses. Melanoma accounts for approximately 75 per cent of Canadian skin cancer deaths.
- The International Agency for Research on Cancer has classified indoor tanning equipment as a Group 1 carcinogen (carcinogenic to humans).
- Young people may have greater susceptibility to the carcinogenic effects of ultraviolet radiation. The risk of melanoma was 75 per cent greater for those who first used a tanning bed before age 35 compared to those who had never tanned.
- Voluntary guidelines are ineffective in restricting the use of tanning equipment by minors.
- Council may wish to require a process of consultation prior to finalizing the by-law.

DISCUSSION

1. Background

The Council of the Corporation of the City of Mississauga unanimously adopted Resolution 0118-2012 to explore the feasibility of amending the Business Licensing By-Law to prohibit minors from using indoor tanning beds or equipment on May 23, 2012 and forwarded the motion to Regional Council for review. Regional Council adopted Resolution 2012-660 on May 24, 2012, referring the matter to the Medical Officer of Health for a report to Regional Council.

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2. Findings

a) Skin Cancer

Skin cancer is the most common form of cancer. In Ontario, an estimated 35,000 new cases of skin cancer were diagnosed in 2011, accounting for approximately 1/3 of all cancer diagnoses.

Skin cancer is categorized based on the type of cells involved. There are three main types of skin cancer: basal cell carcinoma, squamous cell carcinoma and melanoma. The majority of skin cancers are basal cell and squamous cell carcinomas, which are usually localized and cured with excision. Malignant melanoma accounts for less than 10 per cent of all skin cancers diagnosed in Ontario, but it is of particular concern because it accounts for approximately 75 per cent of skin cancer deaths.

The incidence of melanoma in Canada has increased more than three-fold over the past 35 years. Over 2800 new cases are expected to be diagnosed in Ontario in 2012. Although the majority of people who are diagnosed with melanoma are in their 50s and 60s, it is one of the most common cancers and leading causes of cancer deaths in young adults. In Ontario, it is the fourth most common cancer diagnosed in young adults aged 15-29.

Sun exposure is the main environmental cause of skin cancer, due to the cellular damage caused by ultraviolet (UV) radiation. Both UVA and UVB radiation contribute to the development of skin cancer, although UVB radiation poses the greater risk.

b) Ultraviolet Radiation

UV radiation has a shorter wavelength and is more energetic than visible light. It is divided into three wavelength ranges:

- UVA is long-range UV radiation; it is not as energetic as UVB, but can penetrate deep into the skin, causing immediate tanning and premature skin aging. It is not readily absorbed by the ozone layer.
- UVB radiation is higher energy radiation. It can penetrate the epidermis (the outer layer of the skin) and is responsible for delayed tanning and sunburns. The ozone layer absorbs most UVB radiation; only about 5 per cent reaches the earth.
- UVC radiation is harmful even with short exposures and is filtered out by the ozone layer.

The sun is the main source of UV radiation. Other sources of exposure include artificial UV radiation from lights used in industrial and medical applications, and in indoor tanning equipment. The International Agency for Research on Cancer classified solar radiation as a Group 1 carcinogen (carcinogenic to humans) in 1992. Artificial tanning equipment was reclassified from a Group 2A (probably carcinogenic to humans) to a Group 1 carcinogen in 2009.¹

¹ The World Health Organization/International Agency for Research on Cancer (IARC) provides government authorities with expert, independent, scientific opinion on environmental exposures that may increase the risk of cancer. Exposures are classified based on the strength of evidence that they are carcinogenic to humans. Full descriptions of the IARC groups and review process can be found on the IARC website: www.iarc.fr

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c) Ultraviolet Radiation and Vitamin D

Vitamin D is an essential compound with many important functions in the body, including assisting with calcium and phosphorous absorption and supporting bone health. Humans obtain vitamin D through exposure to the sun and through the diet. Vitamin D deficiency can lead to abnormal bone development in children and an increased risk of fractures in adults. There is increasing evidence that vitamin D may also play a role in reducing the risk of many chronic diseases, including some forms of cancer, autoimmune diseases, cardiovascular disease and infectious diseases.

Most experts agree that most children and adults require 800-1000 International Units of vitamin D per day. Exposure of just the hands, arms, and face to bright sunlight for five minutes three times per week during spring, summer, and fall is sufficient to produce adequate levels of vitamin D in most people.

d) Indoor Tanning

Indoor tanning equipment includes tanning beds (sunbeds) and tanning lamps. Modern indoor tanning equipment primarily emits UVA radiation, although a small portion is in the UVB range. The UV output of a typical indoor tanning bed is at least as great as the midday sun in southern Europe, and may be as high as 10-15 times greater in new, more powerful appliances. The UVA dose per unit time received during a typical indoor tanning session can be much greater than those experienced during daily activities or even sunbathing. In frequent tanners, the average annual UVA dose may be 1.2-4.7 times that received by the sun.

The prevalence of indoor tanning varies between populations and studies. In the United States, the proportion of individuals who reported using indoor tanning equipment in the past year ranged from 20.4 per cent of adults aged 18-29 to 7.8 per cent of adults aged 65 and older. Indoor tanning is generally most common among teen and young adults, particularly young women. In Ontario, 21 per cent of high school students reported using tanning equipment at least once by the time they reached grade 12.

Young people may have greater susceptibility to the carcinogenic effects of ultraviolet radiation. In a meta-analysis of seven studies, the risk of melanoma was 75 per cent greater for those who first used a tanning bed before age 35 compared to those who had never tanned. The risk increases with more frequent tanning. A recent United States study showed that frequent users (defined as greater than 50 hours, 100 sessions, or 10 years of indoor tanning) were 2.5 to 3 times more likely to develop melanoma than those who had never used tanning equipment.

e) Regulation of Commercial Tanning

i) Existing legislation

Federal

The Radiation Emitting Devices Act and Regulations (Tanning Equipment) set out the technical requirements for tanning equipment and replacement parts sold, leased, or imported into Canada.

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Provincial

The Province of Nova Scotia passed the *Tanning Beds Act* on May 31, 2011. The *Act* prohibits the use of commercial tanning beds by anyone younger than 19 years of age and outlines signage requirements. Owners can be fined up to a maximum of \$10,000 and have their business closed for up to two years for repeated violations of the *Act*.

The Provinces of Newfoundland and Labrador, and Quebec recently passed similar legislation prohibiting minors from using commercial tanning equipment, and British Columbia is expected to do the same through an amendment to the *Public Health Act* regulations in the fall of 2012.

At the present time, the Province of Ontario does not regulate the use of tanning facilities by youth; however, a Bill is pending in the Ontario legislature that would, if enacted, result in a Provincial ban on the use of commercial tanning facilities by individuals under 18 years of age. Bill 74, *An Act To Help Prevent Skin Cancer*, passed first reading in the Ontario Legislative Assembly on April 26, 2012. Although introduced as a private member's bill, Premier McGuinty has recently announced that the Ontario government will adopt Bill 74 and there is a strong indication that Provincial legislation will be forthcoming. Notwithstanding this Provincial initiative, Peel Public Health staff are of the opinion that this matter is urgent and that Regional Council should take action to implement a by-law without delay.

Regional and Local

The Capital Regional District of Vancouver Island, BC, adopted its Tanning Facility Regulations By-law on October 12, 2011, which provides that operators must not permit anyone under the age of 18 to use their tanning facilities.

The Town of Oakville amended their business licensing by-law on August 13, 2012 to prohibit the use of tanning equipment by minors.

In Peel, tanning facilities are not currently subject to business licensing by-laws or inspection at the area municipal or Regional levels of governance.

ii) Guidelines

Federal

Health Canada published voluntary guidelines for tanning salon owners, operators, and users in 2005. In addition to recommendations regarding client assessment and protective eyewear, these guidelines specifically note that children under the age of 16 years should not use tanning equipment.

Provincial

Several provinces have voluntary guidelines for indoor tanning salon owners and operators, which either prohibit indoor tanning by clients under the age of 18 or 19, or require signed parental consent.

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Tanning Industry

The Joint Canadian Tanning Association (JCTA) has voluntary professional standards for members that include operator training and certification, restriction of equipment control to certified operators only, written parental consent for clients under the age of 18, mandatory protective eyewear, skin-typing clients correctly, and not allowing those with skin type 1 (who always burn and never tan) to use tanning equipment. There are no provisions for enforcement. The JCTA is advocating for legislation in all provinces that supports these standards. This would make it more difficult to implement effective local controls.

3. Options for Restricting the Use of Indoor Tanning Equipment by Minors

a) Status Quo

This would permit minors to continue to use commercial indoor tanning equipment.

b) Letter of Support to the Minister of Health and Long-Term Care for Ontario Private Member's Bill 74.

Formal support for the Bill would be welcome; however, waiting for provincial legislation to prohibit minors from using tanning equipment will result in a delay in protecting the health of minors in the Region of Peel, or a missed opportunity if the Bill does not pass or is amended to be less restrictive.

c) Voluntary Guidelines

- i) Requiring parental consent
- ii) Prohibiting minors from using artificial tanning equipment

Various levels of government and other organizations, including the tanning industry, have introduced voluntary guidelines requiring parental consent or restricting the sale of indoor tanning services to minors. As there are no legal requirements, there is no monitoring of compliance.

In the United States, no differences in tanning behaviour have been found between states that require parental consent and those that do not. In 2008, the Canadian Cancer Society commissioned a study of tanning facilities in Toronto to determine whether they were complying with Health Canada's voluntary guidelines. Among the 79 tanning facilities surveyed, 60 per cent did not ask the age of researchers who were minors, 60 per cent did not identify researchers who had type 1 skin that burns and never tans, and 99 per cent of facilities did not recommend against tanning for those researchers with skin type 1.

d) Legal Restrictions on the Use of Indoor Tanning Equipment by Minors (less than 18 years of age)

- i) Regional by-law
- ii) Amendment to municipal business licensing by-law prohibiting the use of commercial tanning equipment by minors

Legal restrictions prohibiting the use of commercial tanning equipment by minors are consistent with the recommendations of the World Health Organization, the Canadian

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Cancer Society, the Canadian Paediatric Society, the Canadian Medical Association and the Ontario Medical Association. This approach recognizes the increased vulnerability of children and adolescents to the effects of UV radiation, and their immature decision-making skills. It is consistent with restrictions on minors for other harmful exposures such as alcohol and tobacco, and injury prevention legislation such as bike helmet use.

Pursuant to subsection 11(2) of the *Municipal Act, 2001*, Regional Council is authorized to pass by-laws with respect to the health, safety, and well-being of persons. Compliance with the proposed Regional by-law would be achieved through a combination of annual public health inspections of each of the currently estimated 65 tanning facilities in Peel as well as through a response to complaints from the public. In addition, the proposed by-law provides for administrative fines to be levied in the instance of a by-law infraction, although the set fine schedule is subject to approval by a Regional Senior Justice, and this process is expected to take several weeks.

It is also open to the Region's area municipalities to invoke their business licensing powers to require tanning facilities to be licensed and to prohibit the use of commercial tanning equipment by minors. Such an amendment to municipal business licensing by-laws would serve to facilitate identification of premises and would empower the area municipalities to suspend or revoke the business license of an owner in the appropriate circumstances.

Mississauga and Brampton City Councils have already requested that by-law staff investigate the feasibility of amending local business licensing by-laws to prohibit minors from using tanning equipment. Staff in all three area municipalities in the Region have been consulted in the preparation of this report.

Although it would involve a degree of regulatory overlap, it is the opinion of Public Health staff that it would be most effective to pursue regulation of tanning facilities at both the Regional and area municipal levels in tandem.

FINANCIAL IMPLICATIONS

Tanning businesses are not currently subject to regular inspection, regardless of whether tanning services are offered in a personal service setting or as a stand-alone business. Implementation of regulations, re-inspections, and complaint follow-up in the approximately 65 tanning facilities currently operating in Peel Region is estimated to require 0.25 full time equivalent public health inspector which will be resourced from within the existing complement.

CONCLUSION

Peel Public Health recommends a Regional by-law prohibiting the use of commercial tanning equipment by minors (less than 18 years of age), with amendments to municipal business licensing by-laws to include indoor tanning facilities and prohibit the use of commercial tanning equipment by minors in order to facilitate inspection and enforcement.

A by-law prepared by staff accompanies this report, and includes the following provisions:

Age – Operators may not permit minors to use indoor tanning equipment. Anyone who appears to be less than 25 years must be required to present proof of age before using tanning equipment.

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Signage – Operators must post warning signs conspicuously in the reception area, as well as in the immediate proximity of each piece of tanning equipment, outlining health risks associated with UV exposure and the restriction on minors.

Inspection and enforcement – By-law enforcement officers and the Medical Officer of Health or his/her designate (public health inspector) may enter at any time in order to determine whether regulations in the by-law are being enforced.

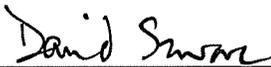


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Approved for Submission:



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