

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 169

**Representative Hillyer
Cosponsor: Representative Brennan**

A BILL

To amend sections 4713.50, 4713.51, 4713.64, 1
4731.14, and 4731.34 of the Revised Code to 2
prohibit the provision of sun lamp tanning 3
services to individuals under age 18 and to make 4
changes regarding the titles that may be used by 5
physicians. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4713.50, 4713.51, 4713.64, 7
4731.14, and 4731.34 of the Revised Code be amended to read as 8
follows: 9

Sec. 4713.50. (A) A tanning facility operator or employee 10
shall make reasonable efforts, in accordance with procedures 11
established under section 4713.08 of the Revised Code, to 12
determine ~~whether the age of~~ an individual seeking to use the 13
facility's sun lamp tanning services ~~is less than sixteen years~~ 14
~~of age, at least sixteen but less than eighteen years of age, or~~ 15
~~eighteen years of age or older.~~ 16

~~(B)(1)~~ (B) A tanning facility operator or employee shall 17
not allow an individual who is less than eighteen years of age 18

to use the facility's sun lamp tanning services. 19

(C) A tanning facility operator or employee shall not 20
allow an individual who is eighteen years of age or older to use 21
the facility's sun lamp tanning services without first obtaining 22
the consent of the individual. The consent shall be evidenced by 23
the individual's signature on the form developed by the state 24
cosmetology and barber board under section 4713.51 of the 25
Revised Code. The consent is valid indefinitely. 26

~~(2) A tanning facility operator or employee shall not~~ 27
~~allow an individual who is at least sixteen but less than~~ 28
~~eighteen years of age to use the facility's sun lamp tanning~~ 29
~~services without first obtaining the consent of a parent or~~ 30
~~legal guardian of the individual. The consent shall be evidenced~~ 31
~~by the signature of the parent or legal guardian on the form~~ 32
~~developed by the board under section 4713.51 of the Revised~~ 33
~~Code. The form must be signed in the presence of the operator or~~ 34
~~an employee of the tanning facility. The consent is valid for~~ 35
~~ninety days from the date the form is signed. A tanning facility~~ 36
~~operator or employee shall not allow an individual who is at~~ 37
~~least sixteen but less than eighteen years of age to use the~~ 38
~~facility's sun lamp tanning services for more than forty five~~ 39
~~sessions during the ninety day period covered by the consent. No~~ 40
~~such session may be longer than the maximum safe time of~~ 41
~~exposure specified in rules adopted under division (A) (17) of~~ 42
~~section 4713.08 of the Revised Code.~~ 43

~~(3) A tanning facility operator or employee shall not~~ 44
~~allow an individual who is less than sixteen years of age to use~~ 45
~~the facility's sun lamp tanning services unless both of the~~ 46
~~following apply:~~ 47

~~(a) The tanning facility operator or employee obtains the~~ 48

~~consent of a parent or legal guardian of the individual prior to 49
each session of the use of the facility's sun lamp tanning 50
services. The consent shall be evidenced by the signature of the 51
parent or legal guardian on the form developed by the board 52
under section 4713.51 of the Revised Code. The form must be 53
signed in the presence of the operator or an employee of the 54
tanning facility. 55~~

~~(b) A parent or legal guardian of the individual is 56
present at the tanning facility for the duration of each session 57
of the use of the facility's sun lamp tanning services. 58~~

~~(C) For purposes of this division (B) of this section, an 59
electronic signature may be used to provide and may be accepted 60
as a signature evidencing consent. 61~~

Sec. 4713.51. The state cosmetology and barber board shall 62
develop a form for use by tanning facility operators and 63
employees in complying with the consent requirements of division 64
~~(B)~~ (C) of section 4713.50 of the Revised Code. The form must 65
describe the potential health effects of radiation from sun 66
lamps, including a description of the possible relationship of 67
the radiation to skin cancer. In developing the form, the board 68
shall consult with the department of health, dermatologists, and 69
tanning facility operators. The board shall make the form 70
available on the internet web site maintained by the board. 71

Sec. 4713.64. (A) The state cosmetology and barber board 72
may take disciplinary action under this chapter for any of the 73
following: 74

(1) Failure to comply with the safety, sanitation, and 75
licensing requirements of this chapter or rules adopted under 76
it; 77

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| (2) Continued practice by an individual knowingly having an infectious or contagious disease; | 78 79 |
| (3) Habitual drunkenness or addiction to any habit-forming drug; | 80 81 |
| (4) Willful false and fraudulent or deceptive advertising; | 82 |
| (5) Falsification of any record or application required to be filed with the board; | 83 84 |
| (6) Failure to pay a fine or abide by a suspension order issued by the board; | 85 86 |
| (7) Failure to cooperate with an investigation or inspection; | 87 88 |
| (8) Failure to respond to a subpoena; | 89 |
| (9) Conviction of or plea of guilty to a violation of section 2905.32 of the Revised Code; | 90 91 |
| (10) In the case of a salon, any individual's conviction of or plea of guilty to a violation of section 2905.32 of the Revised Code for an activity that took place on the premises of the salon. | 92 93 94 95 |
| (B) On determining that there is cause for disciplinary action, the board may do one or more of the following: | 96 97 |
| (1) Deny, revoke, or suspend a license, permit, or registration issued by the board under this chapter; | 98 99 |
| (2) Impose a fine; | 100 |
| (3) Require the holder of a license, permit, or registration issued under this chapter to take corrective action courses. | 101 102 103 |

(C) (1) Except as provided in divisions (C) (2) and (3) of 104
this section, the board shall take disciplinary action pursuant 105
to an adjudication under Chapter 119. of the Revised Code. 106

(2) The board may take disciplinary action without 107
conducting an adjudication under Chapter 119. of the Revised 108
Code against an individual or salon who violates division (A) (9) 109
or (10) of this section. After the board takes such disciplinary 110
action, the board shall give written notice to the subject of 111
the disciplinary action of the right to request a hearing under 112
Chapter 119. of the Revised Code. 113

(3) In lieu of an adjudication, the board may enter into a 114
consent agreement with the holder of a license, permit, or 115
registration issued under this chapter. A consent agreement that 116
is ratified by a majority vote of a quorum of the board members 117
is considered to constitute the findings and orders of the board 118
with respect to the matter addressed in the agreement. If the 119
board does not ratify a consent agreement, the admissions and 120
findings contained in the agreement are of no effect, and the 121
case shall be scheduled for adjudication under Chapter 119. of 122
the Revised Code. 123

(D) The amount and content of corrective action courses 124
and other relevant criteria shall be established by the board in 125
rules adopted under section 4713.08 of the Revised Code. 126

(E) (1) The board may impose a separate fine for each 127
offense listed in division (A) of this section. The amount of 128
the first fine issued for a violation as the result of an 129
inspection shall be not more than two hundred fifty dollars if 130
the violator has not previously been fined for that offense. Any 131
fines issued for additional violations during such an inspection 132
shall not be more than one hundred dollars for each additional 133

violation. The fine shall be not more than five hundred dollars 134
if the violator has been fined for the same offense once before. 135
Any fines issued for additional violations during a second 136
inspection shall not be more than two hundred dollars for each 137
additional violation. The fine shall be not more than one 138
thousand dollars if the violator has been fined for the same 139
offense two or more times before. Any fines issued for 140
additional violations during a third inspection shall not be 141
more than three hundred dollars for each additional violation. 142

(2) The board shall issue an order notifying a violator of 143
a fine imposed under division (E) (1) of this section. The notice 144
shall specify the date by which the fine is to be paid. The date 145
shall be less than forty-five days after the board issues the 146
order. 147

(3) At the request of a violator who is temporarily unable 148
to pay a fine, or upon its own motion, the board may extend the 149
time period within which the violator shall pay the fine up to 150
ninety days after the date the board issues the order. 151

(4) If a violator fails to pay a fine by the date 152
specified in the board's order and does not request an extension 153
within ten days after the date the board issues the order, or if 154
the violator fails to pay the fine within the extended time 155
period as described in division (E) (3) of this section, the 156
board shall add to the fine an additional penalty equal to ten 157
per cent of the fine. 158

(5) If a violator fails to pay a fine within ninety days 159
after the board issues the order, the board shall add to the 160
fine interest at a rate specified by the board in rules adopted 161
under section 4713.08 of the Revised Code. 162

(6) If the fine, including any interest or additional penalty, remains unpaid on the ninety-first day after the board issues an order under division (E) (2) of this section, the amount of the fine and any interest or additional penalty shall be certified to the attorney general for collection in the form and manner prescribed by the attorney general. The attorney general may assess the collection cost to the amount certified in such a manner and amount as prescribed by the attorney general.

(F) In the case of an offense of failure to comply with ~~division (A) or (B) (2) or (3) of~~ section 4713.50 of the Revised Code, the board shall impose a fine of five hundred dollars if the violator has not previously been fined for that offense. If the violator has previously been fined for the offense, the board may impose a fine in accordance with this division or take another action in accordance with division (B) of this section.

(G) The board shall notify a licensee or registrant who is in violation of division (A) of this section and the owner of the salon in which the conditions constituting the violation were found. The individual receiving the notice of violation and the owner of the salon may request a hearing pursuant to section 119.07 of the Revised Code. If the individual or owner fails to request a hearing or enter into a consent agreement thirty days after the date the board, in accordance with section 119.07 of the Revised Code and division (J) of this section, notifies the individual or owner of the board's intent to act against the individual or owner under division (A) of this section, the board by a majority vote of a quorum of the board members may take the action against the individual or owner without holding an adjudication hearing.

(H) The board, after a hearing in accordance with Chapter 193
119. of the Revised Code or pursuant to a consent agreement, may 194
suspend a license, permit, or registration if the licensee, 195
permit holder, or registrant fails to correct an unsafe 196
condition that exists in violation of the board's rules or fails 197
to cooperate in an inspection. If a violation of this chapter or 198
rules adopted under it has resulted in a condition reasonably 199
believed by an inspector to create an immediate danger to the 200
health and safety of any individual using the facility, the 201
inspector may suspend the license or permit of the facility or 202
the individual responsible for the violation without a prior 203
hearing until the condition is corrected or until a hearing in 204
accordance with Chapter 119. of the Revised Code is held or a 205
consent agreement is entered into and the board either upholds 206
the suspension or reinstates the license, permit, or 207
registration. 208

(I) The board shall not take disciplinary action against 209
an individual licensed to operate a salon or school of 210
cosmetology for a violation of this chapter that was committed 211
by an individual licensed to practice a branch of cosmetology, 212
while practicing within the salon or school, when the 213
individual's actions were beyond the control of the salon owner 214
or school. 215

(J) In addition to the methods of notification required 216
under section 119.07 of the Revised Code, the board may send the 217
notices required under divisions (C) (2), (E) (2), and (G) of this 218
section by any delivery method that is traceable and requires 219
that the delivery person obtain a signature to verify that the 220
notice has been delivered. The board also may send the notices 221
by electronic mail, provided that the electronic mail delivery 222
system certifies that a notice has been received. 223

Sec. 4731.14. (A) The state medical board shall review all 224
applications submitted under section 4731.09 of the Revised Code 225
and determine whether each applicant meets the requirements for 226
a license to practice medicine and surgery or osteopathic 227
medicine and surgery. 228

(B) If the board determines that the evidence submitted 229
with an application is satisfactory and the applicant meets the 230
requirements for a license, the board shall issue to the 231
applicant a license to practice medicine and surgery or 232
osteopathic medicine and surgery, as applicable. If the 233
applicant holds a medical degree other than the degree of doctor 234
of medicine or doctor of osteopathic medicine, the license shall 235
indicate that the applicant is authorized to practice medicine 236
and surgery pursuant to the laws of this state. Each license 237
issued by the board shall be signed by its president and 238
secretary, and attested by its seal. 239

(C) The holder of a license to practice medicine and 240
surgery issued under this chapter may use the titles "Dr.," 241
"doctor," "M.D.," ~~or~~ "Doctor of Medicine," "physician," or 242
"surgeon." The holder of a license to practice osteopathic 243
medicine and surgery issued under this chapter may use the 244
titles "Dr.," "doctor," "D.O.," ~~or~~ "Doctor of Osteopathy," 245
"physician," or "surgeon." 246

(D) The holder of a license issued under this section 247
shall either provide verification of licensure status from the 248
board's internet web site on request or prominently display a 249
wall certificate in the license holder's office or place where 250
the majority of the holder's practice is conducted. 251

Sec. 4731.34. (A) A person shall be regarded as practicing 252
medicine and surgery, osteopathic medicine and surgery, or 253

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| podiatric medicine and surgery, within the meaning of this <u>of</u> | 254 |
| <u>this</u> chapter, who does any of the following: | 255 |
| (1) Uses the words or letters, "Dr.," "Doctor," "M.D.," | 256 |
| "physician," "D.O.," "D.P.M.," <u>"Doctor of Medicine," "Doctor of</u> | 257 |
| <u>Osteopathy," "surgeon," "dermatologist,"</u> or any other title in | 258 |
| connection with the person's name in any way that represents the | 259 |
| person as engaged in the practice of medicine and surgery, | 260 |
| osteopathic medicine and surgery, or podiatric medicine and | 261 |
| surgery, in any of its branches; | 262 |
| (2) Advertises, solicits, or represents in any way that | 263 |
| the person is practicing medicine and surgery, osteopathic | 264 |
| medicine and surgery, or podiatric medicine and surgery, in any | 265 |
| of its branches; | 266 |
| (3) In person or, regardless of the person's location, | 267 |
| through the use of any communication, including oral, written, | 268 |
| or electronic communication, does any of the following: | 269 |
| (a) Examines or diagnoses for compensation of any kind, | 270 |
| direct or indirect; | 271 |
| (b) Prescribes, advises, recommends, administers, or | 272 |
| dispenses for compensation of any kind, direct or indirect, a | 273 |
| drug or medicine, appliance, mold or cast, application, | 274 |
| operation, or treatment, of whatever nature, for the cure or | 275 |
| relief of a wound, fracture or bodily injury, infirmity, or | 276 |
| disease. | 277 |
| (B) The treatment of human ills through prayer alone by a | 278 |
| practitioner of the Christian Science church, in accordance with | 279 |
| the tenets and creed of such church, shall not be regarded as | 280 |
| the practice of medicine, provided that sanitary and public | 281 |
| health laws shall be complied with, no practices shall be used | 282 |

that may be dangerous or detrimental to life or health, and no 283
person shall be denied the benefits of accepted medical and 284
surgical practices. 285

(C) The use of words, letters, or titles in any connection 286
or under any circumstances as to induce the belief that the 287
person who uses them is engaged in the practice of medicine and 288
surgery, osteopathic medicine and surgery, or podiatric medicine 289
and surgery, in any of its branches, is prima-facie evidence of 290
the intent of such person to represent the person as engaged in 291
the practice of medicine and surgery, osteopathic medicine and 292
surgery, or podiatric medicine and surgery, in any of its 293
branches. 294

Section 2. That existing sections 4713.50, 4713.51, 295
4713.64, 4731.14, and 4731.34 of the Revised Code are hereby 296
repealed. 297