



**Testimony**

of

**Nancy Clark, MA, CIH, CSP**  
**Assistant Commissioner, Bureau of Environmental Disease and Injury Prevention**  
**Division of Environmental Health**  
**New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Health**

Jointly with the

**Council Committee on Consumer Affairs**

On

**Intro 0304-2014 -- Promoting Health and Safety at Nail Salons**

And

**Intro 0610-2015 -- Requiring the Posting of Information Related to Services Offered at  
Licensed Appearance Enhancement Businesses.**

**May 1, 2015**  
**Council Chambers, City Hall**  
**New York City**

Good morning, Chairmen Johnson and Espinal, Public Advocate James, and members of the Committees. My name is Nancy Clark, and I am the Assistant Commissioner for the Bureau of Environmental Disease and Injury Prevention at the New York City Department of Health and Mental Hygiene. I am joined today by Amit Bagga, Mary Cooley, and Richard O'Hara, my colleagues from the Department of Consumer Affairs (DCA), who will answer questions about how the legislation being considered today impacts DCA. On behalf of Commissioner Bassett, thank you for the opportunity to testify.

I want to note at the outset of my testimony that the Law Department is still considering these bills and how they relate to existing New York State laws and regulations, so my testimony does not account for possible issues the Corporation Counsel may find in its review.

The legislation under consideration today addresses the appearance enhancement industry, and nail salons in particular. As you know, the New York State General Business Law governs these businesses, but the Health Department does respond to occasional complaints about odors emanating from these shops lodged by residential and commercial neighbors of salon businesses. Upon inspection, if we determine that chemical vapors are permeating neighboring spaces, we order the salon owner to mitigate the condition. Often this involves requiring the salon owner to improve or install a ventilation system to prevent odors from entering neighboring spaces. The Health Department also provides links on our web site to health and safety information on nail salon and other appearance enhancement services issued by the federal Occupational Safety and Health Administration, the Food and Drug Administration, and the New York State Departments of Health and State.

Intro 304-A aims to promote better practices in the nail salon industry by mandating creation of health and safety guidelines, establishing a voluntary "healthy nail salon" certification program; reimbursing salons for installation of ventilation systems; requiring registration with the Department; mandating the posting of signs; requiring the Department to conduct education and outreach; and establishing a nail salon task force. The Department appreciates and supports the goals of Intro 304-A to raise awareness about nail salon products and the working conditions for nail salon employees. The New York City Public Advocate estimates that there are 2,000 nail salons operating in New York City, employing thousands of workers. Because many salon employees are new immigrants, likely earning low or minimum wages, with limited English proficiency, they may be unaware of workers' rights and safe work practices. The Department believes, however, that the bill's certification, reimbursement and registration provisions would not affect change in this industry, while requiring the Department to divert significant resources from other programs.

The chemical products used in many nail salons can present risks to workers who may be exposed through inhalation or direct exposure to the skin. Potential health impacts vary depending on the specific chemicals used and the duration and level of exposure. There is a wide array of synthetic and natural chemical products used in nail salons and too much exposure to certain products can cause irritation, allergic reactions and other effects. Proper ventilation can dramatically reduce inhalational exposures and gloves can help prevent direct exposure. Other ways to limit exposures may include substituting safer products where available, limiting the amounts of products used, and keeping product and waste containers closed. As awareness about nail salon products has increased, some of the top brands of nail polishes have been reformulated so they no longer contain toluene, dibutyl phthalate and formaldehyde. Given the

potential for harm and the vulnerability of the workforce, the Department supports those parts of the bill that would require our agency to create health and safety guidelines in multiple languages, and would like to work with the Council on the specifics of the required guidance.

The voluntary “healthy nail salon” certification is unlikely to create an incentive for these businesses to implement best practices. In order for a voluntary certification program to succeed, a significant number of businesses must participate, industry trade groups must accept such certification as a better business practice, and consumers must be aware of the advantages of a ‘certified’ business. Until certification - rather than service, convenience, location or cost - drives consumer choice, businesses are unlikely to participate.

Salon owners are unlikely to allow Health Department inspections or to incur costs associated with potential changes to the building’s mechanical and ventilation systems which might be made more difficult and costly to implement by the business’ lease agreement. Certification would also require nail salon owners to avoid certain products that competitors may offer and customers may prefer.

The bill would also require “installation” of a “mechanical ventilation system” - which must be used at all hours of operation, even if there is little need during some hours - in order for a nail salon to be certified. But the bill broadly defines that to include a “dilution ventilation system,” which pulls clean outdoor air in and pushes indoor air out, and an “exhaust ventilation system,” which can be nothing more than a downdraft ventilated table that recirculates indoor air. The method of ventilation needed to achieve good indoor air quality depends on a variety of factors specific to the salon, including the number of tables, their proximity to each other, the amount of chemical products used, the size of the salon and the building site. The legislation, however, requires the Department to provide a “healthy nail salon” seal to any salon that simply has a ‘mechanical ventilation system,’ whether that system meets that salon’s indoor air quality needs or is, in fact, used.

For similar reasons, the bill’s reimbursement program is untenable. The Department does not have the resources to provide grants of up to \$500 to the estimated 2,000 salons in the City, and procurement rules make the cost of administering such a grant significant, despite the small size of each grant. It is not clear that the bill would allow the Department to reimburse a salon only when it installs a ventilation system appropriate to its operation, and, in many cases installation of an appropriate system could cost thousands of dollars, perhaps more, far more than the allotted 500 dollars.

The mandatory registration system also does little to further the laudable goals of promoting best practices among nail salon operators. Registration can be helpful when the City does not know how many businesses operate in a given industry or where those businesses are located. Because New York State licenses nail salons, the City can already obtain that information. Developing a registration system would be duplicative with little benefit to justify the expense. Intro 304-A does not include certification or registration fees and consequently provides no funds to cover the cost of inspections; manage a reimbursement program; develop, translate and distribute guidance, signage and educational materials; or build a registration system.

Given the significant amount of work that has been done in the City - especially by Public Advocate James - and at the federal level by OSHA, and by environmental health

advocates, the Department believes that a task force is unnecessary. We already understand both the risks associated with nail salons and the ways to mitigate those risks. We stand ready to work with the Council to issue and disseminate guidance on health and safety for nail salons.

Turning to Intro 610, which would require DCA to create a list of appearance enhancement consumers' rights and require these businesses to conspicuously post the list. DCA's overall mission is to empower consumers and businesses alike to ensure a fair and vibrant marketplace. The agency licenses approximately 80,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces New York City's Earned Sick Time Act, commonly known as the "paid sick leave" law. In addition to its licensing, consumer protection, and labor-related work, DCA operates the Office of Financial Empowerment.

As part of their patrol inspections, DCA would be able to enforce the provisions in Intro 610 that would require the posting of information related to services offered at licensed appearance enhancement businesses.

Thank you for the opportunity to testify. My colleagues and I would be happy to take any questions.