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Gel, Acrylic, or Shellac: The Impact of Southeast and East Asian Immigrant Nail Salon Workers on the Health Care System

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GEL, ACRYLIC, OR SHELLAC: THE IMPACT OF SOUTHEAST AND EAST ASIAN IMMIGRANT NAIL SALON WORKERS ON THE HEALTH CARE SYSTEM

Kelsey–Anne Fung

INTRODUCTION

As a result of daily use and handling of toxic nail products, immigrant Asian nail salon workers commonly suffer from asthma, cancer, and reproductive complications. The lack of comprehensive government regulation of the cosmetic industry and workplace health and safety adds to the severity of these chronic illnesses. Further, since nail salons typically do not provide health insurance, and workers earn such low wages that they cannot afford health insurance, nail technicians delay seeking treatment until they must resort to emergency care. Collectively, this large and vulnerable minority group imposes a heavy burden on safety net clinics, which warrants concern for the effectiveness of the Patient Protection and Affordable Care Act and the costs to state infrastructures. Since the employer mandate and expansion of Medicaid fail as avenues for obtaining health insurance coverage for immigrant women, state plan flexibility under the Patient Protection and Affordable Care Act may be the only solution for immigrants and nail salon workers in gaining access to regular health care. Beyond the immediate context of the nail salon, the findings from this article have larger implications for legislators and other professions who seek to regulate long-term occupational exposures to chemical hazards and reduce prevalence of exposure-related diseases.

I. BACKGROUND TO THE NAIL SALON INDUSTRY

The nail salon industry is one of the fastest growing professions in the United States.[1] With over 350,000 nail salon

[1] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, THE NAIL SALON INDUSTRY AND THE IMPACT OF COSMETIC TOXINS ON API WOMEN'S REPRODUCTIVE HEALTH 2 (2008), *available at* http://napawf.org/wp-content/uploads/2009/working/pdfs/issuebrief_nailsalon_updated.pdf (finding that from 1997 to 2007, the number of salons increased by 374%); Brandeis Univ. JBS Envtl. Health & Justice Program, *Indoor Air Quality Survey of Boston Nail Salons*, (2011)

workers and 58,000 beauty salons in the nation, the effects of daily and combined use of solvents, glues, gels, polishes, and acrylics pose a major concern to occupational health and safety.[2] Women constitute approximately ninety–five percent of all nail salon workers, the majority of whom are of child–bearing age.[3] While there is no exact consensus on the industry figures, Vietnamese women comprise thirty–nine percent of the nation's nail technicians, while Koreans form two percent.[4] In California alone, eighty percent of nail manicurists are Vietnamese immigrant women.[5] Commonly, Vietnamese and Korean immigrant women are drawn to the nail industry because of the ease of accessibility, relatively minimal training, and the limited English proficiency required.[6] Since this vulnerable minority group faces a lack of linguistic and culturally appropriate resources and information, many of them are not given safety equipment or occupational protections while using cosmetic products. On average, a licensed nail technician can earn up to $19,220 a year, or $9.24 per hour, with no benefits such as employer–provided health insurance.[7] Hence, due to the constant exposure to carcinogens in nail products, nail technicians typically develop asthma, dermatitis, or cancer but delay seeking treatment because they do not have health insurance.[8] While Southeast and East Asian immigrant women have found a thriving niche in the market and community, it is a niche that comes with serious health costs.

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http://www.brandeis.edu/jbs/pastprograms/f2011/nailstudy.pdf (reporting revenue from nail salons to be over $6.5 billion in 2003).

[2] Steve Greenhouse, *Studies Highlight Hazards of Manicurists' Chemicals*, N.Y.TIMES, August 19, 2007, at A26;
Thu Quach et. al, *Characterizing Workplace Exposures in Vietnamese Women Working in California Nail Salons*, 101 AM. J. PUB. HEALTH 1, 271 (2011).

[3] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 1.

[4] *Id.* at 2; Letter from Nat. Healthy Nail Salon Alliance to OSHA Docket Off. (Mar. 31, 2010) [hereinafter Nat'l Healthy Nail Salon Alliance] (on file with the OSHA Docket Office), *available at* http://napawf.org/wp-content/uploads/2010/03/OSHA-NHNSA-comments-FINAL.pdf.

[5] Momo Chang, *Nonprofit Targets Nail Salon Worker*s, INSIDEBAYAREA.COM (Jan. 21, 2007, 2:41 AM),
http://www.insidebayarea.com/sanmateocountytimes/localnews/ci_5056700#.

[6] Nat'l Healthy Nail Salon Alliance, *supra* note 4.

[7] *Occupational Outlook Handbook, 2012–13 Edition*: *Manicurists and Pedicurists*, U.S. DEP'T OF LABOR BUREAU OF LABOR STATISTICS
(Jan. 8, 2014), http://www.bls.gov/ooh/personal-care-and-service/manicurists-and-pedicurists.htm (last visited Nov. 24, 2013); CHANG, *supra* note 5, at 3.

[8] Chang, *supra* note 5, at 2.

A. Chemical Makeup of Cosmetic Products

Formaldehyde, toluene, and dibutyl phthalate form the three main ingredients in nail products.[9] Together, they are known as the "toxic trio."[10] While cosmetic manufacturers contend the chemicals used in salons are safe, the intensity of exposure for manicurists is 1,200 times the level of exposure for average Americans.[11] Occupational exposures are far worse than sparse household use of nail products because of the limited safety information, small and unventilated workspaces, and long hours of constant exposure to the toxic air or skin contact.[12] Without proper ventilation systems, the use of multiple products can drastically affect workers' health.[13] Federal oversight agencies have only studied the health effects of each chemical individually, and have not considered possible synergistic or accumulated effects from long–term occupational use.[14]

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[9] THU QUACH ET AL., CAL. HEALTHY NAIL SALON COLLABORATIVE, FRAMING A PROACTIVE RESEARCH AGENDA TO ADVANCE WORKER HEALTH AND SAFETY IN THE NAIL SALON AND COSMETOLOGY COMMUNITIES 8 (2010), *available at* http://nailsalonalliance.org/storage/CA%20Collab%20Research%20Agenda.pdf.

[10] Patricia Leigh Brown, *At some Nail Salons, Feeling Pretty and Green*, N.Y. TIMES, Nov. 11, 2010, at A21.

[11] Greenhouse, *supra* note 2 at A26; Sarah A. Walsh, *Beyond the Polish: An Examination of Hazardous Conditions in Nail Salons and Potential Solutions for the Industry in New York City*, 21 J.L. & POL'Y 243, 256 (2013) ("In 2007, *Time Magazine* placed nail technicians on its 'Worst Jobs in America' list because nail technicians are consistently exposed to chemicals deemed carcinogenic by the EPA.").

[12] QUACH ET AL., *supra* note 9, at 7

[13] U.S. DEP'T OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMIN., STAY HEALTHY AND SAFE WHILE GIVING MANICURES AND PEDICURES: A GUIDE FOR NAIL SALON WORKERS
3 (2012), *available at* https://www.osha.gov/Publications/3542nail-salon-workers-guide.pdf; U.S. ENVTL. PROT. AGENCY OFFICE OF POLLUTION PREVENTION AND TOXICS AND OFFICE OF ADMIN. AND RES. MGMT., PROTECTING THE HEALTH OF NAIL SALON WORKERS
2 (Mar. 2007) [hereinafter PROTECTING THE HEALTH OF NAIL SALON WORKERS], *available at* http://www.epa.gov/dfe/pubs/projects/salon/nailsalonguide.pdf.

[14] In addition to the "toxic trio", other chemical ingredients where overexposure can lead to irritation, inflammation, skin rash, or cancer include hydroquinoine, methacrylic acid, methyl ethyl ketone, titanium dioxide, ethyl methacrylate, camphor, butyle acetate, acetone, benzoyl peroxide, ethyl cyanoacrylate. PROTECTING THE HEALTH OF NAIL SALON WORKERS, *supra* note 13, at ii–iii.

1. "Toxic Trio" Hazardous Chemicals in Nail Polish and Effect on Health

In nail products, formaldehyde serves as a nail–hardening agent and quickly evaporates into the air as a gas.[15] Overexposure is known to cause cancer.[16] The Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) have found that prolonged exposure may cause asthma–like respiratory problems, and irritation to the eyes, nose, skin, and throat.[17] OSHA has deemed formaldehyde a cancer hazard, and has linked it with long–term exposure to coughing and wheezing, and dermatitis.[18] Toluene is used in nail polish to produce a smooth finish on the topcoat of the nail.[19] It is also used in fingernail glue.[20] OSHA and the EPA have found overexposure of toluene to cause liver and kidney damage, irritation to the eyes, throat, and nose, and damage to the central nervous system.[21] This includes dizziness, headaches, numbness, and effects on the brain such as the inability to concentrate, remember, or recognize words.[22] Lastly, dibutyl phthalate is used in nail polish as a nail hardener.[23] Overexposure to dibutyl phthalate has been linked to reproductive damage and irritation to the eyes, stomach, and upper respiratory system.[24] Together, these three chemical

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[15] *Formaldehyde Information*, COSMETICS INFO (2013), http://www.cosmeticsinfo.org/HBI/18 (last visited Mar. 15, 2014).
[16] *OSHA Fact Sheet: Formaldehyde*, OCCUPATIONAL SAFETY & HEALTH ADMIN. (April 2011), https://www.osha.gov/OshDoc/data_General_Facts/formaldehyde-factsheet.pdf.
[17] OFFICE OF POLLUTION PREVENTION AND TOXICS AND OFFICE OF ADMIN. AND RES. MGMT., *supra* note 13, at ii.
[18] OCCUPATIONAL SAFETY & HEALTH ADMIN., *supra* note 16.
[19] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 2.
[20] Brown, *supra* note 10.
[21] OFFICE OF POLLUTION PREVENTION AND TOXICS AND OFFICE OF ADMIN. AND RES. MGMT., *supra* note 13, at iii; OCCUPATIONAL SAFETY AND HEALTH ADMIN., INFOSHEET: TOLUENE SAFETY IN THE WORKPLACE 2013, *available at* https://www.osha.gov/Publications/OSHA3646.pdf (Nov. 17, 2013).
[22] CAL. HEALTHY NAIL SALON COLLABORATIVE, UNDERSTANDING THE TOXIC TRIO: PROTECTING YOURSELF AT WORK– A GUIDE FOR THE NAIL SALON WORKFORCE, (2012), *available at* http://www.cahealthynailsalons.org/wp-content/uploads/2010/07/Toxic_Trio_EN_March2012.pdf.
[23] OFFICE OF POLLUTION PREVENTION AND TOXICS AND OFFICE OF ADMIN. AND RES. MGMT., *supra* note 13, at ii.
[24] *Id.*; European Union, *Dibutyl Phthalate*, GLOSSARY, http://ec.europa.eu/health/opinions/en/phthalates-school-supplies/glossary/def/dpb-dibutyl-phthalate.htm (last visited Jan. 19, 2014) ("At present, DBP is banned in all

ingredients form a toxic combination to which daily and continuous exposures endanger the health and safety of nail salon workers.[25]

2. Shortcomings in Federal Oversight by the FDA

The Food and Drug Administration (FDA) is responsible for regulating cosmetic products. Under the Federal Food, Drug, and Cosmetic Act and Fair Packaging and Labeling Act, cosmetics are defined as "articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body...for cleansing, beautifying, promoting attractiveness, or altering the appearance."[26] This definition covers nail polishes, solvents, and all nail products used in the process of a manicure. However, the Federal Food, Drug, and Cosmetic Act only prohibits the marketing of adulterated or misbranded products.[27] Since salon workers use cosmetic products according to their intended use, for painting onto human finger and toe nails, and manufacturers do not typically mislabel their nail products, the FDA's authority does not protect nail technicians from injury.

The Federal Food, Drug, and Cosmetic Act does not require FDA approval for cosmetic products and ingredients before they go on the market.[28] Unlike regulations for drugs, biologics, and medical devices, the FDA has no authority to regulate ingredient formulations.[29] As long as the ingredient and finished cosmetic are safe under "customary" conditions, properly labeled, and not

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toys and childcare articles (European Directive 2005/84/EC) as well as in cosmetics, including nail polish as it is considered to be carcinogenic, mutagenic, or toxic to reproduction.").

[25] THE NAT'L HEALTHY NAIL SALON ALLIANCE, REMOVING THE TOPCOAT: UNDERSTANDING FEDERAL OVERSIGHT OF NAIL SALONS 5 (2011), *available at* http://nailsalonalliance.org/storage/Removing%20the%20Topcoat%20May2011.pdf.

[26] 21 U.S.C. § 321(i) (2014); U.S. Food & Drug Admin., *FDA Authority over Cosmetics*, U.S. FOOD & DRUG ADMIN., http://www.fda.gov/cosmetics/guidanceregulation/lawsregulations/ucm074162.htm (last updated Aug. 3, 2013).

[27] *Id.*

[28] U.S. Food & Drug Admin., *How FDA Evaluated Regulated Products: Cosmetics*, U.S. FOOD & DRUG ADMIN., http://www.fda.gov/AboutFDA/Transparency/Basics/ucm262353.htm (last updated Aug. 3, 2013).

[29] U.S. Food & Drug Admin., *supra* note 26.

adulterated or misbranded, the cosmetic will be free to enter the market without prior testing by the FDA.[30] The FDA concedes that companies are not legally required to disclose to the FDA their product information or safety data, nor can the FDA recall a cosmetic product.[31] This leaves the safety of cosmetic products to be completely determined by the cosmetic industry.[32] The FDA has no legal authority to enforce or actively remove harmful cosmetic products from the market, and must rely solely on voluntary compliance and reporting from a cosmetic industry that generates over $7.3 billion a year.[33] Additionally, the Food, Drug and Cosmetic Act expressly preempts regulation of cosmetics by any state or state-level agency, thwarting any attempts by states to recall, test, or approve cosmetic products or labels.[34] Without meaningful enforcement of regulatory power over cosmetic manufacturers, the health and safety of consumers and nail technicians are left unprotected.

Not only does the FDA lack enforcement authority, but it has improperly delegated its authority to review ingredients to the Cosmetic Ingredient Review. The Cosmetic Ingredient Review (CIR) was established in 1976 by lobbyists for the cosmetic industry.[35] The CIR claims that its review procedures are unbiased, however, the Personal Care Products Council, a trade association of cosmetic manufacturers, provides all of the funding for the CIR.[36] While it has the support of the FDA, the CIR lacks any creditability because it polices its own products and procedures.[37] As of today, ninety percent of ingredients currently used in products have never been tested and "only [eleven] percent of more than 12,000 cosmetic chemicals have been reviewed for safety."[38] The politically powerful cosmetic

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[30] *Id*.
[31] U.S. Food & Drug Admin., *supra* note 28.
[32] *Id*.
[33] *Id*.; Walsh, *supra* note 11, at 248.
[34] 21 U.S.C § 379(s) (2014).
[35] Cosmetic Ingredient Review, *About the Cosmetic Ingredient Review*, COSMETIC INGREDIENT REVIEW (last visited Mar.12, 2014), http://www.cir-safety.org/about.
[36] *Id*. ("Although funded by the Council, CIR and the review process are independent from the Council and the cosmetics industry.").
[37] Dori Gilels et al., The U.S. Nail Salon Industry: Booming Businesses, Growing Concern, WOMEN & ENVIRONMENTS 20 (2008) ("The largely self–regulated industry routinely fails to adhere to its own safety panel's advice or heed the health warnings in cosmetic safety standards set in other countries").
[38] Pauline Bartolone, *Combating Nail Salon Toxics*, 18 RACE, POVERTY, & THE ENVIRONMENT 23, 24 (2011).

industry "has successfully found loopholes in the alphabet soup of government agencies—the FDA, EPA, OSHA—and its own self–monitored Cosmetic Ingredient Review (CIR)," allowing for a multitude of toxic ingredients to still be used today.[39] Although the EPA and OSHA have deemed both formaldehyde and toluene as carcinogens, the Cosmetic Ingredient Review and Food and Drug Administration still permit them to be used in cosmetic products, discrediting the known dangers to nail salon technicians and consumers.[40] Instead of nail technicians bearing the cost of reform with their health, the product manufacturers and government agencies should be held accountable and incentivized to produce the safest products possible.

3. Other Federal Agencies

Despite the FDA's federal authority to regulate cosmetics, the regulations are superficial without enforcement powers of prior approval and recall. To exacerbate the problem of lack of federal oversight, the Environmental Protection Agency does not have jurisdiction under the Toxic Substances Control Act to regulate ingredients in cosmetic products as toxic substances.[41] The Occupational Safety and Health Administration (OSHA), however, has authority to regulate permissible exposure limits (PELs) for hazardous chemicals in the workplace.[42] OSHA has promulgated acceptable PELs for the concentration amounts for formaldehyde and toluene, and assigns responsibility to the employer to test air quality and ensure compliance.[43] For formaldehyde, OSHA has set the

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[39] Walsh, *supra* note 11, at 266, (quoting Momo Chang, *Under the Varnish*, COLORLINES, Winter 2005–06, *available at* http://colorlines.com/archives/2005/12/under_the_varnish.html); *See also* Pauline Bartolone, *Combating Nail Salon Toxics*, 18 RACE, POVERTY, & THE ENVIRONMENT 23 (2011) (highlighting that while the FDA requires cosmetic products to be labeled with a full list of ingredients, there is a loophole for nail salon products).

[40] Bartolone *supra* note 37, at 23. ("Because the law is so weak, companies can use ingredients that are known to cause cancer–or cause reproductive harm–and it's perfectly legal to do that.").

[41] Walsh, *supra* note 11, at 264 (2013); THE NATIONAL HEALTHY NAIL SALON ALLIANCE, *supra* note 25, at 5.

[42] 29 C.F.R. 1910.1048(c)(1) (2012) ("The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds 0.75 parts formaldehyde per million parts of air (0.75 ppm) as an 8–hour TWA").

[43] *Id.*

standard for permissible exposure limits (PELs) at 0.75 parts formaldehyde per million parts of air in an eight–hour time–weighted average (TWA) concentration.[44] For toluene, OSHA has set the permissive exposure limit at 200 parts toluene per million parts of air.[45]

Workers' rights advocates argue that while OSHA's PELs offer more protections than the FDA's regulations, the PELs do not account for continued exposure to different chemicals over a long period of time.[46] When the vapors from multiple nail products interact and linger in the air, they form a potent, toxic concoction that can accumulate in the body over time, and lead to chronic health conditions.[47] The same toxic blend can affect more than one person at the same time, or all of the nail technicians simultaneously working in one salon.[48] The PELs also fail to consider that "'safe exposure levels may vary based on gender, age, or pregnancy status of the exposed worker." [49] Moreover, the scope of the PELs are "restricted to inhalation exposure and do not account for absorption through the skin," which is common for manicurists who work with their hands throughout the day.[50] Thus, the PELs need to be updated and lowered to reflect current scientific knowledge of carcinogens and account for synergistic effects of multiple chemical vapors in one work environment.[51] These standards should operate as a floor, rather than a

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[44] *Id.;* OCCUPATIONAL SAFETY & HEALTH ADMIN., *supra* note 16 ("Airborne concentrations of formaldehyde above 0.1 ppm can cause irritation of the respiratory tract").

[45] 29 C.F.R. §1000 Table Z–2, *available at* http://www.gpo.gov/fdsys/pkg/CFR-2009-title29-vol6/pdf/CFR-2009-title29-vol6-sec1910-1000.pdf

[46] Bartolone, *supra* note 37 at 24; DEP'T. OF PUB. HEALTH: STATE OF CAL., STANCES: AN INTRODUCTION TO CHEMICAL HAZARDS IN THE WORK PLACE (2008), *available* at http://www.cdph.ca.gov/programs/hesis/Documents/introtoxsubstances.pdf.

[47] *See* Walsh, *supra* note 11, at 260 (stating the long-term chronic effects lead to asthma, cancer, and/or reproductive harm).

[48] *Id*. ("In nail salons specifically, individuals are simultaneously exposed to a variety of toxins").

[49] *Id*.

[50] ALEXANDRA GORMAN & PHILIP O'CONNOR, GLOSSED OVER: HEALTH HAZARDS ASSOCIATED WITH TOXIC EXPOSURE IN NAIL SALONS, WOMEN'S VOICES FOR THE EARTH 6 (2007), *available at* http://www.womensvoices.org/wp–content/uploads/2010/06/GlossedOver.pdf.

[51] NAT'L HEALTHY NAIL SALON ALLIANCE, OSHA LISTENS: OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STAKEHOLDER MEETING (DOCKET NO. OSHA–2010–0004): COMMENTS OF THE CALIFORNIA HEALTHY NAIL SALON

ceiling, and states and individual workplaces should be encouraged to adopt and enforce even more restrictive regulations and protective workplace practices.

B. Working Conditions of a Nail Salon

The common health problems faced by nail salon workers are exacerbated by the working conditions of the nail salon. While adverse health effects from ordinary household use of nail products are almost nonexistent, the severity increases exponentially for technicians who breathe in vapors from and have physical contact with solvents, lacquer, polish, and acetone six to seven days a week for more than eight continuous hours.[52] Thus, protective measures that improve occupational health at the source are crucial to preventing workers from developing chronic illnesses and incurring medical costs.

Prolonged exposure to residual vapors from toxic ingredients in nail products alone may be sufficient to cause the severe health outcomes that workers experience. However, poor ventilation and the lack of protective eyewear, masks, and nitrile gloves increase the intensity of exposure.[53] Ventilation plays a major role in reducing the concentration of toxins in the air, and the severity of health effects that nail technicians suffer.[54] The difference in air quality with a running ventilator system can reduce chemical vapors from over 826 parts per million to as little as 12.4 parts per million.[55] Without proper ventilation, the vapors stay trapped inside the salon, hovering in the breathing space of the nail technician and interacting with the fumes

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COLLABORATIVE, THE NATIONAL ASIAN PACIFIC AMERICAN WOMEN'S FORUM, AND WOMEN'S VOICES FOR THE EARTH, CO–CONVENERS OF THE NATIONAL HEALTHY NAIL SALON ALLIANCE, RELATED TO HEALTH AND SAFETY ISSUES FACING NAIL SALON WORKERS, NAT'L ASIAN PAC. AM. WOMEN'S FORUM 1, 6 (Mar. 31, 2010), *available at* http://napawf.org/wp–content/uploads/2010/03/OSHA–NHNSA–comments–FINAL.pdf.

[52] Steve Greenhouse, *supra* note 2; Steve Greenhouse, *At Nail Salons, Beauty Treatments Can Have a Distinctly Unglamorous Side*, N.Y. TIMES August 17, 2007, ("Like many manicurists, she typically worked ten hours a day, six days a week. On busy days, she said, she often could not take a lunch break until 5 p.m.").

[53] OFFICE OF POLLUTION PREVENTION AND TOXICS AND OFFICE OF ADMIN. AND RES. MGMT., *supra* note 13. Although no specific time frame was mentioned, six to seven days a week for more than eight hours likely constitutes over exposure.

[54] U.S. DEP'T OF LABOR, *supra* note 13.

[55] *Id.* at 7 ("Without a ventilation system running, chemical levels during acrylic nail removal reached very high levels (over 826 parts per million)."

from other chemical ingredients. Over eight hours of constant inhalation of these fumes for six days a week correlate with the high incidence of asthma and respiratory illnesses reported by workers.[56] Studies have shown that the simplest of measures such as leaving the front door or windows open during business hours dramatically decreases the concentration of chemical vapors.[57] OSHA and the EPA have recommended that salons install individual ventilated worktable stations for each nail technician to minimize inhalation and use fans to pull harmful vapors away from the worker's face.[58] Moreover, the use of nitrile gloves, high quality face masks, and protective glasses blocks dermal and respiratory contact with the nail products and can prevent skin, eye, nose, and throat irritation commonly experienced by nail salon workers.[59] Because safety information is rarely translated into Korean or Vietnamese, workers also unknowingly and improperly handle toxic nail products, worsening their exposure levels.[60]

1. Independent Contractor or Employees

Typically, nail technicians are not recognized as employees of the nail salon, but rather as independent contractors.[61] Like hair stylists, nail technicians often rent a station at a salon, purchase their own tools and supplies, and set their own appointments.[62] However, if the salon owner schedules the appointments, provides supplies and equipment, and pays its workers a minimum hourly wage, then it is more likely that the worker is an employee of the nail salon.[63] This legal distinction implicates coverage under the Occupational Safety and Health Act as well as federal worker labor and compensation laws.[64] Since the Occupational Safety and Health Act does not apply

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[56] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1 at 4.
[57] Thu Quach et al., *supra* note 2 at 101.
[58] OFFICE OF POLLUTION PREVENTION & TOXICS & OFFICE OF ADMIN. & RES. MGMT.,*supra* note 13*;* U.S. DEP'T OF LABOR, *supra* note 13.
[59] VIETNAMESE HEALTHY NAIL SALON PROJECT, WILL YOU TRY THESE WAYS TO PROTECT YOUR CUSTOMERS AND YOUR HEALTH*?* (Aug. 2009), *available at* http://www.cahealthynailsalons.org/wp–content/uploads/2010/07/Seattle_HealthyNailSalonBrochure_Eng1.pdf.
[60] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1 at 4.
[61] *Id.* at 2.
[62] U.S. DEP'T OF LABOR, *supra* note 13 at 13.
[63] *Id*.
[64] 29 U.S.C. § 651 (2014). (Nail technicians are typically considered independent contractors because they set their own schedules, have individual clients, and obtain

to workers who are self–employed, salon owners are incentivized to hire technicians as independent contractors.[65] Employers are not obligated to protect independent contractors from workplace hazards, and independent contractors are not entitled to a minimum wage, overtime pay, or workers' compensation.[66] Without appropriately translated information, employers may purposefully misclassify employment status to take advantage of immigrant workers and deny health benefits and workers' compensation.[67] This legal distinction affects the vulnerability of this minority group because it decreases their job security and coverage under U.S. laws, including the Patient Protection and Affordable Care Act.[68]

II. SOUTHEAST AND EAST ASIAN WOMEN AND THE NAIL SALON

Many nail salon workers migrated to the United States as refugees from their home country, with limited English proficiency, education, and resources.[69] Workers find the nail salon and cosmetic profession appealing because the licensing requirements are inexpensive, quick, and do not require high English proficiency.[70] Moreover, the nature of the profession allows for on–the–job training and practice since English fluency is not essential to executing a nail technician's job responsibilities.[71] Due to the low barriers to entry, immigrant workers are drawn to the nail salon industry because it

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tips so the Act does not apply to them because they do not fit the "employee" definition.

[65] 29 C.F.R. § 1904.1, *available at* https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9632.

[66] U.S. DEP'T OF LABOR, *supra* note 13 at 13.

[67] *Id*.

[68] 42 U.S.C. § 18001 (2014). (The Patient Protection and Affordable Healthcare Act (2010) is supposed to improve access to low income, uninsured, and rural populations by increasing coverage amongst impoverished workforce. However, independent contracts are not entitled to coverage the way employees of large businesses' are, resulting in a continued disparity amongst nail salon workers).

[69] THE NAT'L HEALTHY NAIL SALON ALLIANCE, *supra* note 25, at 5.

[70] JULIA LIOU, WORKFORCE DEMOGRAPHICS AND CONTEXT SETTING, CAL. HEALTH NAIL SALON COLLABORATIVE (Apr. 27, 2008), *available at* http://www.cahealthynailsalons.org/wp-content/uploads/2010/07/1_WorkforceDemographics_Liou.pdf.

[71] MILIANN KANG, THE MANAGED HAND: RACE, GENDER & THE BODY IN BEAUTY SERVICE WORK 32–33 (2010); Walsh, *supra* note 11, at 248; NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1.

"represents an accessible entry point into the workforce and an immediate way to earn money for their families."[72]

Often, nail technicians work in a salon owned by a family member or friend in the community, which complicates the employment relationship when it comes to lack of overtime pay, minimum wage, health benefits, and protective gear and supplies.[73] In addition to the fear of deportation and fear of losing their job, it also explains why workers with immigrant status are hesitant to whistle blow and report the salon owner to OSHA, or advocate for workers' compensation.[74] Typically, an employer's threat of deportation is enough to silence and offset workers' rights.[75] In many Asian countries, individuals do not view the government as a trustworthy avenue for assistance, but instead view the law as oppressive.[76] Legal remedies are often the last resort. With this mindset, assertion of workers' rights and a clean and safe working environment become unlikely.

Immigrant Chinese, Korean, Vietnamese, and Southeast Asian women are especially drawn to the nail salon profession because of the relative low barriers to entry and minimal licensing requirements.[77] For instance, in the New York and New Jersey region, more than eighty percent of the salons are Korean–owned.[78] In California, where twenty–one percent of the nation's nail technician population is

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[72] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 2.

[73] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 4; *See* Greenhouse, *supra* note 51 ("Owners often force employees to work 60 hours a week while failing to pay overtime or allow lunch breaks. And lower manicure prices mean lower tips for workers who spend their days cutting cuticles and painting on polish.").

[74] Leticia M. Saucedo, *A New "U": Organizing Victims and Protecting Immigrant Workers*, 42 U. RICH. L. REV. 891, 932 (2008); Sarah Maslin Nir, *New York Nail Salon Workers Uniting Against Job Abuses*, N.Y TIMES, Apr. 11, 2012, at A20, *available at* http://www.nytimes.com/2012/04/11/nyregion/new-york-nail-salon-workers-uniting-against-job-abuses.html?_r=0&adxnnl=1&adxnnlx=1379948614-ydyqQMJLNXWaM3QIEzlIjQ.

[75] Saucedo, *supra* note 73, at 930 ("In the immigrant community, one of the ways that unscrupulous employers can take advantage of the legal system is to misrepresent legal consequences by threatening a complaining worker with deportation once a worker has filed charges.").

[76] *See* Chang, *supra* note 5 ("You say you're from Asian Law Caucus, they hear the word 'law.' They think you're from some government institution that wants to punish them. They just turn you away and you don't get that opportunity to earn their trust.").

[77] THE NAT'L HEALTHY NAIL SALON ALLIANCE, *supra* note 25, at 3.

[78] Greenhouse, *supra* note 51.

located, eighty percent of nail salon workers are Vietnamese immigrant women.[79] California's decision to offer the licensing exam in Vietnamese may help explain this high figure.[80] While Vietnamese individuals as a minority group make up less than one percent of the total U.S. population, they comprise over forty percent of the nation's nail salon workers.[81] The growing number of Vietnamese cosmetic school instructors and Vietnamese–owned salons who employ other Vietnamese persons also contribute to and perpetuate the disproportionately high levels of Vietnamese in the nail salon industry specifically.[82]

Coming from a foreign country, the availability of Vietnamese instructors and salon owners, often connected by family friends, eases the transition and settlement into the United States for nail salon workers.[83] However, the nail salon industry offers immigrant workers a false sense of security because workers are unaware of the inherent health risks in working with the nail products, and they do not have the resources or language proficiency to protect themselves. More importantly, the fear of deportation and distrust of government discourages nail technicians from challenging the status quo and seeking legal help.[84] Overall, the lack of awareness of proper working conditions, culturally and linguistically appropriate safety materials, and political power as a minority group compound the health risks facing immigrant workers in the nail salon industry.

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[79] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 2 (2008).

[80] Maya N. Federman et al., *Impact of State Licensing Regulations on Low–Skilled Immigrants: The Case of Vietnamese Manicurists*, 96 AM. ECON. REV. no. 2, 237 (May 2006).

[81] Linh Chuong, *Labor of Love: Nail Salon Work and Advocacy*, HENDRIXMURPHY (2014), http://hendrixmurphy.org/treatment/labor-of-love-nail-salon-work-and-advocacy/; ELIZABETH M. HOEFFEL, SONYA RASTOGI, MYOUNG OUK KIM, AND HASAN SHAHID, THE ASIAN POPULATION Table 5 (March 2012), *available at* http://www.census.gov/prod/cen2010/briefs/c2010br-11.pdf (reporting that the total number of Vietnamese in the United States as of 2011 totaled 1,737,433 out of 308,745,538 people).

[82] LIOU, *supra* note 69; NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 2.

[83] *See* Chuong, *supra* note 80 ("Furthermore, some of the beauty schools in Southern California are run and staffed by Vietnamese people, allowing recent immigrant women to be trained by people who understand them and can help them through the confusing process of getting their hours and licensure.").

[84] *See* Chang, *supra* note 5 ("[Some of the salons] think you're from some government institution that wants to punish them. They just turn you away and you don't get that opportunity to earn their trust.").

III. ACCESS TO HEALTH CARE/ HEALTH INSURANCE AND DISPARITIES IN HEALTH

Long–term exposure to the toxic trio, lack of oversight of the cosmetic industry from the FDA, and lack of translated safety material leave Southeast and East Asian nail salon workers burdened with adverse health outcomes. Since many nail salon workers are not provided with health insurance from the salon owners and cannot afford their own health insurance, workers must shoulder out–of–pocket medical costs or rely on safety net clinics and emergency care.[85] Consequently, due to the high costs of medical care, salon workers delay seeking preventative or necessary medical treatment for acute occupation–related illnesses until the health condition becomes very serious and debilitating.[86] However, financial costs are not the only reason for postponing medical treatment. Asian women also typically delay seeking medical care because of the denial, embarrassment, and shame that come with admitting the need for help.[87] Many feel a sense of guilt or fault for burdening their families with the stress of their medical diagnosis.[88] Additionally, the language barrier and lack of culturally and linguistically appropriate health care

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[85] NAT'L ASIAN PAC. AM. WOMEN'S FORUM, *supra* note 1, at 2; Jennifer Tsui et al., *Proximity to Safety–Net Clinics and HPV Vaccine Uptake Among Low–Income Ethnic Minority Girls*, 31 VACCINE 2028, 2029 (2013) ("Geographic access to care, defined as the relationship between the location of health care providers and the location of clients, has been shown to impact the utilization of health services, including HIV testing, asthma management, breast cancer screening, and childhood immunizations."); *See* Greenhouse, *supra* note 51 ("I spent $1,000 out of my own pocket to see doctors about the rash.").

[86] Kaiser Family Found., *The Uninsured and the Difference Health Insurance Makes: What Difference Does Health Insurance Make? Figure 4*, KFF.ORG (Sept. 1, 2012), http://kff.org/health-reform/fact-sheet/the-uninsured-and-the-difference-health-insurance/ ("Worried about high medical bills, [uninsured] are twice as likely to delay or forgo needed care as the insured."); CENTER FOR DISEASE CONTROL AND PREVENTION, HEALTH, UNITED STATES, 2012, WITH SPECIAL FEATURE ON EMERGENCY CARE, U.S. DEP'T OF HEALTH AND HUMAN SERVS. (May 2013), *available at* http://www.cdc.gov/nchs/data/hus/hus12.pdf (finding that during 2001 through 2011, the percentage of adults aged 18–64 who delayed or did not receive needed medical care or prescription drugs due to cost was highest for the uninsured).

[87] Chang, *supra* note 5.

[88] Erin Loury, *In Vietnamese Community, Treating Taboos on Cancer*, L.A. TIMES, (Aug. 11, 2012), http://articles.latimes.com/print/2012/aug/11/local/la-me-vietnamese-cancer-20120810.

services limit how comfortably immigrant women feel discussing their medical condition.[89] Financial stability, pride and stigma are unspoken factors that commonly impede efforts or willingness to visit the doctor.

The U.S. Census Bureau reported in 2012 that 15.4% or 48 million people were uninsured.[90] As a group, Asian and Pacific Islanders are disproportionately underinsured, especially those who fall below the federal poverty line and earn less than a minimum wage.[91] Although figures specific to Vietnamese nail salon workers are unknown, a 2013 study estimates that thirty percent of Vietnamese immigrants are uninsured compared to twelve percent for non–Hispanic whites.[92] As the lack of health insurance is associated with reduced use of preventive services and regular medical treatment, immigrant workers must sacrifice self–care for financial stability and basic necessities.[93] Given the severity of the illnesses that result from daily use and exposure to chemicals in nail products, health insurance coverage can be determinative in whether a nail technician develops

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[89] Keely Monroe & Christine Soyong Harley, *Health Equity for API Women Through the Affordable Care Act,* 22 HARV. J. ASIAN AM. POL'Y REV. 3, 4–5 (2011–2012) ("[S]ome API women are unable to fully communicate the extent of their health issues. They are forced to rely on family members and friends to interpret private and often complex health information on their behalf. Discussing sex or sexuality with your doctor is already difficult, adding cultural taboos or language barriers makes it nearly impossible for API women to feel comfortable talking about and accessing reproductive health services."); Ilana Redstone Akresh, *Health Service Utilization Among Immigrants to the United States*, 28 POPULATION RESEARCH & POL'Y REV. no. 6, 795, 805 (December 2009) ("English proficiency is associated with the number of times Asian immigrants visit the doctor, while it has no statistically significant relationship for Hispanics.").

[90] U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2012*, U.S. CENSUS (Sept. 17, 2013), http://www.census.gov/newsroom/releases/archives/income_wealth/cb13-165.html.

[91] *See* Monroe, et al., *supra* note 87, at 3 ("[A]mong people below the federal poverty level, thirty–nine percent of Asian and Pacific Islander individuals are uninsured compared to twenty–five percent of non–Latino whites.").

[92] Juliana Clough et al., *Barriers to Health Care Among Asian Immigrants in the United States: A Traditional Review*, 24 J. HEALTH CARE FOR THE POOR & UNDERSERVED 384, 385 (2013); *See* Monroe, et al., *supra* note 87, at 5 (illustrating that the lack of statistical health data for Asian subpopulations poses a significant obstacle to identifying and reducing health disparities).

[93] *See* Monroe, *supra* note 87, at 4 (concluding that Asian and Pacific Island women are forgoing preventive care services such as pap smears, mammograms, and STD testing.).

lung or breast cancer, or asthma or dermatitis. Moreover, because the nail salon workforce is comprised of women of child–bearing age, regular access to prenatal and preventive care impacts whether the child will suffer birth defects from chemical exposure.[94] In a 2004 study of nail technicians in New York, thirty–seven percent reported experiencing skin problems, thirty–seven percent reported eye irritation, fifty–seven percent reported allergies, sixty–six percent reported injuries from neck or back discomfort, and eighteen percent reported that they suffered from asthma.[95] Collectively, without basic health insurance coverage, the nail salon industry represents a high–risk population because of their propensity to developing serious health conditions. In order to offset the risk of providing health coverage to this vulnerable minority group, the government would theoretically have to force insurance companies to pool nail salon workers with a large, low risk population. This would be a radical departure from the political norm of excluding immigrants from receiving public benefits.[96]

Historically, uninsured immigrant workers have been forced to rely on safety net clinics, hospital emergency departments, and public health centers for medical care.[97] From a health provider perspective, lawmakers were concerned with the growing costs of uncompensated care provided to low–income immigrants.[98] Because unauthorized immigrants are shut out from federal programs such as Medicaid, the only remaining option is to pay high out of pocket costs or secure

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[94] *See* Chuong, *supra* note 80 ("As a result of the low pay, the way the industry is structured, and customer demand, nail salon workers tend to be women of color who are of reproductive age and lack basic health care coverage.").

[95] Greenhouse, *supra* note 51.

[96] Tanya Broder and Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs*, NAT'L IMMIGRATION L. CTR (Oct. 2011), *available at* www.nilc.org/document.html?id=107 ("The major public benefits programs have always prevented some noncitizens from securing assistance. Since the inception of programs such as food stamps (now called the Supplemental Nutrition Assistance Program, or SNAP), nonemergency Medicaid, Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF) and its precursor, Aid to Families with Dependent Children (AFDC), undocumented immigrants and persons in the United States on temporary visas have been ineligible for assistance.").

[97] Jim P. Stimpson, *Unauthorized Immigrants Spend Less than Other Immigrants and US Natives on Health Care*, 32 HEALTH AFFAIRS no. 7, 1313, 1314 (2013).

[98] *Id*. ("[U]nauthorized immigrants have lower health care expenditures and higher rates of receiving uncompensated care than legal residents, naturalized citizens, and US natives.").

private insurance.[99] However, for a low–income worker who earns less than $20,000 a year, health insurance is an unaffordable luxury.[100] While many praise the Patient Protection and Affordable Care Act as a much needed health reform, it will not change health policies regarding unauthorized immigrants.[101] The Patient Protection and Affordable Care Act blocks "unauthorized immigrants from participating in the public health insurance programs and private health insurance marketplace exchanges."[102] In contrast, legal immigrants can participate in the health insurance exchanges and are eligible for federal premium tax credits, but "are subject to a five–year waiting period before they become eligible for Medicaid."[103] Thus, a nail manicurist who is an unauthorized immigrant will be completely barred from any of the Affordable Care Act's benefits, even if his or her income is below 133 percent of the federal poverty level. Consequently, safety net clinics, emergency rooms, and public health centers will remain the primary sources of care and treatment for immigrant nail salon workers.[104]

Alternatively, the employer mandate provision of the Affordable Care Act is another avenue to secure health insurance coverage for nail salon workers.[105] However, if the salon qualifies for a small business exemption, the employer mandate will also fail to provide coverage to immigrant nail salon workers.[106] The employer

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[99] *Id*.
[100] Akresh, *supra* note 87, at 796.
[101] Saltanat Liebert and Carl F. Ameringer, *The Health Care Safety Net and the Affordable Care Act: Implications for Hispanic Immigrants*, 73 PUB. ADMIN. REV. no. 6, 810 (Dec. 2013). Although Liebert and Ameringer's focus is on Hispanic immigrants, the provisions of the Affordable Care Act apply regardless of race or ethnicity.
[102] *Id*.; 42 U.S.C. § 18001 (2010).
[103] JESSICA STEPHENS & SAMANTHA ARTIGA, KEY FACTS ON HEALTH COVERAGE FOR LOW-INCOME IMMIGRANTS TODAY AND UNDER THE AFFORDABLE CARE ACT, KAISER COMM. ON KEY FACTS 1 (March 2013), *available at* http://kaiserfamilyfoundation.files.wordpress.com/2013/03/8279-02.pdf.
[104] *Id*. at 812.
[105] 26 U.S.C. § 4980H (2011).
[106] Health Insurance Marketplace, *What Do Small Businesses Need to Know?: No Penalty for Employers with 50 or Fewer Employees*, HEALTHCARE.GOV (last visited Apr. 14, 2014), https://www.healthcare.gov/what-do-small-businesses-need-to-know ("Employers with 50 or fewer full-time equivalent employees don't face a penalty for not offering health coverage.").

mandate requires that an employer with fifty or more full–time employees, employees that work at least thirty hours per week on average, must offer minimum health insurance coverage to its employees.[107] Since salon owners often employ less than fifty nail technicians per business, nail salon employers will not be subject to the employer mandate of the Patient Protection and Affordable Care Act. Additionally, because some salon owners purposefully misclassify worker employee status as independent contractors to skirt OSHA regulations and labor laws, an employer will continue to be free from any obligation to provide health insurance coverage to independent contractors.[108] Thus, the employer mandate and the Patient Protection and Affordable Care Act will generally fail to secure health insurance coverage for nail salon workers.

However, the Patient Protection and Affordable Care Act also includes a state plan flexibility provision that affords state governments leeway in their adoption of the federal law.[109] States may either establish and operate their own small group and individual health care exchanges, or defer to the federally facilitated government health insurance exchange.[110] States that have adopted and created their own state–based exchange have more control over their insurance markets and can tailor consumer outreach and health plans to their populations.[111] Unless the state opts out of Medicaid expansion, the federal requirements for participating in Medicaid cannot be waived, and restrictions such as the five–year waiting period for legal immigrants will still apply to all states. Thus, a nail salon technician who earns income below the federal poverty line, and who does not have legal status in the United States, will be barred from participation in the health exchanges until states expand coverage on their own.

A new legislative proposal in California may offer the only viable solution to securing affordable health care for nail salon workers—to extend health insurance coverage to undocumented

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[107] KATHY VACCARO, MANAGING THE MANDATES: GEARING UP FOR THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, ICMA UNIV. (August 2013), *available at* http://webapps.icma.org/pm/9507/public/activeliving.cfm?title=Active%20Living&subtitle=&author=.
[108] *See supra* Part I.B.1.
[109] 42 U.S.C. § 18041.
[110] Robert Wood Johnson Foundation, *Health Policy Brief: Health Insurance Exchanges and State Decisions*, HEALTH AFFAIRS, (July 18, 2013).
[111] *Id.*

immigrants through state action.[112] Given the political resistance to including unauthorized immigrants in nationwide public assistance programs and health insurance exchanges, federal attempts to expand coverage under Medicaid will likely fail.[113] Currently, California is considering a bill that would allow undocumented immigrants access to "Medicaid coverage fully paid for by the state."[114] Since Medicaid utilizes eligibility criteria such as residency, immigration status, and U.S. citizenship, a state can establish a "state only" program to provide medical assistance to low–income and immigrant populations who would not otherwise qualify for Medicaid benefits.[115] A state with these additional programs to cover non-Medicaid eligible populations can circumvent federal requirements by using only state funds.[116] California's bill would extend such eligibility to the remaining uninsured and "create a new health exchange where the undocumented can purchase coverage."[117] With this separate health exchange, California would avoid conflict with the federal funding restraints of the Affordable Care Act while providing health insurance access to undocumented immigrants with incomes above and below the federal poverty line.[118]

The California bill, called "Health for All Act", would increase access to preventative and diagnostic health services and relieve overcrowding in emergency rooms.[119] According to bill sponsor Ricardo Lara, "of the 2.3 million illegal immigrants in California, about a million are estimated to be without health care coverage."[120]

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[112] Kate Pickert, *Undocumented Immigrants Could Get Health Insurance in California*, TIME, (Feb. 18, 2014), http://nation.time.com/2014/02/18/undocumented-immigrants-could-get-health-insurance-in- california.
[113] *See supra* note 96.
[114] *See supra* note 112.
[115] Medicaid, *Eligibility*, MEDICAID.GOV (last visited Apr. 15, 2014).
[116] *Id*.
[117] Caroline May, *California Bill Seeks to Extend Subsidized Health Care to Illegal Immigrants*, DAILY CALLER, (Feb. 18, 2014, 3:12 PM), http://dailycaller.com/2014/02/18/california-bill-seeks- extend-subsidized-health-care-to-illegal-immigrants.
[118] *See supra* note 112.
[119] Alec Torres, *Calif. Bill to Provide State-Funded Health Insurance to Illegal Immigrants*, NATIONALREVIEW.COM, (Feb. 19, 2014, 11:59AM), http://www.nationalreview.com/article/371464/calif- bill-provide-state-funded-health-insurance-illegal-immigrants-alec-torres.
[120] *See supra* note 117.

Providing health insurance through the state–program would "cost less than the estimated $1.4 billion that the state spends on providing emergency care to uninsured Californians." [121] This preventative approach to health care aligns with the cost-effective rationales behind universal health care and the importance of securing access to regular medical treatment. Given that California has the highest number of Vietnamese nail salon workers, who are at increased risk of developing cancer from their occupational exposure and who tend to be undocumented, such a proposal that would expand health insurance presents the only real opportunity for nail salon workers to secure coverage. Ultimately, state plan flexibility and the degree of freedom states have to deviate from federal constraints will dictate the number of solutions available to nail salon workers to protect their health and well-being.

IV. CONCLUSION

Southeast and East Asian immigrant nail salon workers face disproportionate exposure levels to dangerous and carcinogenic nail products, and as a result, suffer severe health outcomes at unusually high rates. Without FDA authority of pre-market approval, testing, or recall, the cosmetic industry is wholly self–regulated, resulting in scarce protections to consumers and professions who use nail products on a daily basis. Salon owners often pay below minimum wage, do not provide health insurance or any benefits, and fail to supply adequate safety equipment. Consequently, workers must rely on community safety net clinics and public hospitals for medical care to treat ailments from working in the nail salon, paying steep out–of–pocket rates. On its own, the Patient Protection and Affordable Care Act does not remedy any of the health policy issues facing immigrant nail salon workers. Thus, state–run health exchanges may be the only viable solution to securing preventative and affordable health care services for this overburdened and vulnerable labor force.

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[121] George Lauer, *Others May Follow Calif. in Considering Coverage for Undocumented Immigrants*, CALIFORNIAHEALTHLINE.ORG, (Feb. 20, 2014), http://www.californiahealthline.org/insight/2014/other-states-may-follow-californias- lead-in-considering-coverage-for-immigrants?view=print.