



INSTITUTE FOR JUSTICE

April 4, 2024

Vermont Senate Committee on Government Operations
Vermont General Assembly
115 State Street
Montpelier, Vermont 05633-5301

Re: Letter in opposition to the expansion of the scope of the esthetician practice in H.870

Dear Chair Hardy, Vice Chair Vyhovsky and Members of the Committee:

Thank you for the opportunity to submit this letter in opposition to the provision in H.870 that seeks to expand the scope of practice for estheticians. My name is Alasdair Whitney, and I am Legislative Counsel at the Institute for Justice (IJ). IJ is a nonprofit law firm that works to protect civil liberties, including economic liberty.

IJ encourages the committee to oppose expanding the scope of the esthetician practice. Under the bill, an individual specializing in eyelash extension application or threading would need to obtain a license to continue practicing. As a result, individuals who specialize in these practices would be forced to stop working and complete hundreds of hours of needless esthetician training as either a student or apprentice, at a great cost to the practitioner and their business. Esthetician training in Vermont is expensive, with at least one school charging nearly \$14,000 in tuition and fees. Vermont should make it easier, not harder, for current practitioners to continue working and providing valuable services to customers.

Further, the bill's expanded definition of the practice of esthetics could affect other practices. For example, the bill's inclusion of "manipulating . . . the human body using . . . hands, mechanical apparatus or . . . lotions" could include the practices of massage therapists, bodyworkers, or touch professionals. Although Vermont law currently exempts the practice of other "licensed profession[s] or occupation[s]" from the state's barbering and cosmetology licensing regime,¹ no exemption exists for practices regulated by laws that require practitioner registration. Due to the breadth of this bill's language and in the absence of exemptions for registered professionals, massage therapists, bodyworkers, or touch professionals might feel the need to get licensed as estheticians to avoid violating the law. While this result is likely not the intent of the general assembly, we encourage the committee to consider the potential for confusion that this particular provision in the bill brings to licensed and registered practitioners and aspiring entrepreneurs.

Rather than expanding the scope of practice for estheticians, this committee should instead consider exempting safe practices that are not in need of regulation. For example, make-up artistry is a safe practice; indeed, 13 states, including Vermont's regional neighbors Connecticut, Massachusetts, and Rhode Island, fully exempt the practice from licensure.² And

¹ 26 V.S.A. § 273(2).

² Knepper, L., et al., *License to Work: A National Study of Burdens from Occupational Licensing*, Institute for Justice (3d ed.) (Nov. 2022), available at <https://ij.org/report/license-to-work-3/>.

the safety of this practice is already recognized under state law: make-up application is exempt for artists providing services in the theatrical or performing arts industries.³ This begs the question: if it is safe to apply make-up behind stage, why is it unsafe to do the same thing in a beauty salon? In other words, the safety of this service does not depend on the location or purpose for which it is being provided.

In sum, IJ encourages the committee to oppose expanding the scope of the esthetician practice and consider exempting safe practices that do not require licensure.

Thank you for your time and thoughtful consideration of this issue.

Sincerely,

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³ 26 V.S.A. § 273(4).