

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

HOUSE PROFESSIONAL LICENSURE COMMITTEE

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WEDNESDAY, OCTOBER 5, 2011
9:30 A.M.

PUBLIC HEARING ON
COSMETOLOGY LEGISLATION
HOUSE BILLS 1571, 1867 AND 1868

BEFORE:

HONORABLE JULE HARHART, MAJORITY CHAIRWOMAN
HONORABLE HARRY READSHAW, MINORITY CHAIRMAN
HONORABLE MICHELE BROOKS
HONORABLE GARY DAY
HONORABLE JARET GIBBONS
HONORABLE KEITH GILLESPIE
HONORABLE NEAL GOODMAN
HONORABLE SUE HELM
HONORABLE DAVID HICKERNELL
HONORABLE WILLIAM KORTZ
HONORABLE MARK MUSTIO
HONORABLE DONNA OBERLANDER
HONORABLE CHERELLE PARKER
HONORABLE TONY PAYTON
HONORABLE DOUGLAS REICHLEY
HONORABLE MARIO SCAVELLO
HONORABLE CURITS SONNEY
HONORABLE THOMAS MURT

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WRITTEN TESTIMONY SUBMITTED BY:

- STEVE BREUNER, SOLA SALON
- FRANK SCHOENEMAN, CHAIRMAN AND CEO
EMPIRE BEUATY SCHOOL
- DEBORAH A. DUNN, PRESIDENT/OWNER
LANCASTER SCHOOL OF COSMETOLOGY & THERAPEUTIC BODYWORK
AND PRESIDENT OF PAPSA
- MALCOM BONAWITS
MALCOM’S HAIRCUTTERS

CHAIRWOMAN HARHART: Good morning everybody. I would like to call this hearing to order. It's a little past 9:30 and we are a little pressed for time. I would like to call the hearing of Professional Licensure to order. For proper record keeping and transcription purposes I would call all Members and testifiers to speak clearly into the microphone. So the first order of business we will have roll call taken. Michele will you please take roll call?

ROLL CALL TAKEN

Okay, as I said before we are really limited for time this morning so I do encourage you to come to the podium or come to the microphone and speak clearly and do your testifying but I will first tell you we are holding a public hearing to take testimony on House Bill 1571, which would allow booth rentals in cosmetology salons, and we are also taking testimony on 2 additional bills, which would be House Bill 1867, which would allow massage therapist to work in a cosmetology salon, and House Bill 1868, which would allow cosmetology students to take a written portion of a licensing exam after completion of 9 hours of instruction. So I would like to call the first testifier which would be Steven Breuner from the Sola Salon. Mr. Breuner we thank you for joining us today and look forward to hearing your testimony.

STEVE BREUNER: Thank you. Thank you for the privilege of addressing you this morning. My name is Steve Breuner and I reside in Pittsburgh Pennsylvania. I've been in the retail salon business for 20 years now in the great Commonwealth. Specifically I've built and operated 48 Supercuts Franchise Hair Salons across the state, in some 22 counties. In the process I have recruited and employed over 2,500 cosmetologists over the last 20 years. So maybe by accident I know a little bit about this business. On a personal note, in 1992 I relocated to Western Pennsylvania from the San Francisco Bay area where the Supercuts Salon concept was born in 1975. I'm a 5th generation Northern Californian and a very happy in Western Pennsylvania now

where I reside. Last year I sold my enterprise. I sold the 48 some salons and currently I am doing some other things. I signed a non-compete agreement so I'm not allowed to be back into the salon business for a little bit, yet. But the thing I want to stress is that I have the most reverence and utmost respect for the beauty professional and I didn't when I first set out in this business. But I learned to fall in love with them; their work ethic, their creativity, their responsibility. So I really have a passion for this business. It's most known in the United States. There are 2 compensation models primarily in our business; *commission and booth rental*. I think we all know how each works so I'm not going to go into that. In Pennsylvania, while the commission model is allowed, everybody knows it is a violation to operate a salon on a booth rental basis. It's just not permitted. Pennsylvania, as my understanding is only 1 of 2 states in the Union to prohibit this practice. I believe New Jersey is the only other state that does not allow booth rental compensation. In my personal opinion this antiquated provision is economically debilitating for our state, for the counties, the local municipalities, not to mention the salon owners, the customers and most importantly, the beauty professional –the hair stylist. Before I take you through a quick bullet point list of the reasons the provision should be abolished, let me first make sure that everybody understands a simple facts. There are thousands and thousands of beauty professionals right now operating in their kitchens, in their basements, and many other unprofessional, unregistered and no-tax generating revenue places. It's just the fact. And of course, it's not just skin care. Its manicures, pedicures, massage, waxing and it goes on and on. The more I think about it the more disturbing it is. This is a dangerous and debilitating condition. So because we are very short on time, let me conclude by taking you through what I believe are the reasons to take a look at this and perhaps completely abolish the prohibition against booth rental. Plainly, state income tax revenue would increase dramatically, not only that but local

business privilege tax, borough tax, school district privilege taxes would all increase. Federal and state payroll tax revenue would increase. Stylist generated retail sales tax revenue would increase and actually be reported. New salons and new businesses would be created. Demand for real estate would increase as would property tax revenue. Ancillary demand for contractors, HVAC, cleaning companies, and shear sharpeners, would all benefit. Consumer safety and healthy hygiene would be increased by incenting these people to come out of their currently and unprofessional and illegal environments. Cosmetology school enrollment, I believe, would increase as would state licensing, testing and miscellaneous fee revenue. Beauty professionals would be discouraged from crossing state borders in order to practice booth rental. Additional national salon chains would find Pennsylvania more attractive. Pennsylvania would enjoy its fair share of the greatest growth currently in the salon industry, which is the salon suite concept. It's very new and we're not getting any percentage of that business. Lastly, two really important reasons Pennsylvania flat out would attract more entrepreneurs. Booth rental ferments the dream of working oneself, plain and simple and it offers a significant entrepreneurial up-side to an industry that is over 90% female. Lastly, while the potential for tax revenue and under reporting might exists with booth rental, I grant everybody that it would be dwarfed by the immense increase in tax revenue that would be created, dwarfed. I could go on and on but I would just be repeating myself. Succinctly, I believe it would be a win-win-win win-win-win for the ban on booth rental to be repealed or abolished; the winners, being quite frankly the stylist, the customer, salon owner, the borough, the county, and the state. With that, I conclude my comments and again I really appreciate the opportunity to address everybody this morning.

CHAIRWOMAN HARHART: Thank you Mr. Breuner for your comments. We were going to; we will open it up for questions. But first I do have a question and I would like to know

how will a salon owner insure their booth renters comply with the salon practice standards if they the renters are independent businesses? And legally, are they independent contractors or are they employees?

STEVE BREUNER: Well it depends on the state to which are you are referring. But hypothetically, if we allowed the practice, the booth renter would still be responsible for complying with all of the stipulations currently under the cosmetology code and the salon owner from whom the stylist rents. There still is a commerce relationship there and a responsibility. And in that contractual arrangement the salon owner should be made responsible for how the booth renter operates since they're in the real estate footprint of that salon owner. So there is inherent liability and contractually that's how it would have to be accomplished.

CHAIRWOMAN HARHART: Okay, thank you. Anybody have questions? Yes Representative Scavello.

REPRESENTATIVE SCAVELLO: Thank you Madam Chair. Just for the record I have to be up front and honest. I went to one of these booth rentals in New York and look at what happened to me. I have a couple of questions. The first question: workman's comp in a booth rental; who's going to pay the workman's comp? Suppose, why I bring this up, we've had a situation here in Pennsylvania with builders that would sub out to someone to do jobs and they would say; well they're subs, they don't work for us and there was no workman's comp being paid. And it created a massive problem for us and we've made some laws to try and change some of those things. What would happen in your scenario?

STEVE BREUNER: Well it's my understanding in the other 48 states where booth rental is allowed the salon owner from which the stylist rents the booth is still completely responsible for all operations and everything that happens in the salon. So if somebody trips and falls on the

front step entering the salon; that is the salon owners' issue and that is covered under the salon owner's insurance policy. That would be the case would be the case with Workers Compensation. If my Supercuts, I paid worker's compensation so if I was instead of paying a salary to my 8 stylists, if they were renting a chair from me, my responsibility is the same is it not?

REPRESENTATIVE SCAVELLO: No, because you're not really paying them; they're collecting their own money and they're paying you a booth rental. My question is; who's going to pay the workman's comp if that person get injured somewhere or something is not going to be working, they're going, it happened to us here, that sub went after; went to apply and said, *no, he was suppose to be paying my workman's comp*. It really creates a major problem and we're going to have another industry with this problem with this issue.

STEVE BREUNER: Well I have to tell you since I have never operated a booth rental salon; I can't answer your question. I would simply defer to the states that are successfully doing that. I am sure they have all faced the same issue. I will just frankly answer your question and tell you that I don't have experience with answering your question. But I have to believe that 48 states are onto something and they've figured that one out. That's the best that I can do.

REPRESENTATIVE SCAVELLO: I think it's a roadblock in some of these states and it's become a problem. Something similar to what we've had in the building trades for so many years and you can't ask a business to pay workman's comp for someone that's literally paying them rent, renting a cubical within their building. I just have a problem with that. Thank you.

CHAIRWOMAN HARHART: Thank you. Representative Mustio.

REPRESENTATIVE MUSTIO: Thank you Ms. Chairwoman. Thank you for your testimony. The bullet points, the first few that you have relate to tax revenue and you're saying

that it will increase. I suspect that we're going to have testimony later from others that will say that the tax revenue is going to decrease. Can you please explain to me why it will increase? And in the last bullet point you say there will be immense, which to me means a great deal of incremental tax revenue that will be created.

STEVE BREUNER: Well it's a great question and it might be the keystone of the whole conversation today. I completely acknowledge the fact that booth rental opens up an opportunity for dishonesty. No question about it. The same dishonesty that is happening in many industries whether it is building contractors, window washers, people don't report their income, granted. To answer your question directly; what I believe from my experience in this business is the dream of every single beauty professional whether it's all the way from massage to hair styling. Every single kid that enters school has a dream either in the forefront or in the back of their minds; I want to work for myself. I'm going to have a salon that is my dream. Now most people don't realize it for many different reasons but it's a lot about what this country has been founded on. And it exists more so in our industry maybe than any you could argue. So to answer your question that I believe that the entrepreneurial opportunity that booth rental affords will pull a lot of individuals that are operating illegally out their basements, into their own situation, where they can work for themselves, whether it be a booth rental or actually their own salons but primarily booth rental. I believe that all the tax revenue at all different levels that will be created by this entrepreneurial opportunity will far outweigh or immensely dwarf the issue that we have in our industry like others where people can tend to be dishonest and under report. The commission model offers a supervisory check and balance to make sure individuals report everything, because the salon owner is responsible. I think we can trust these people once they are incented to operate in a very professional and real environment to make the move and work

for themselves and thereby generating revenue on all the different levels that I talked about. So I would just say one more time, I completely acknowledge the issue of dishonesty, under reporting, and allowing people to be maybe unsupervised. But I believe in people. I believe in entrepreneurs for obvious reasons. So I believe the revenue will gains will far, will dwarf what we might, what the liability of what we might lose.

REPRESENTATIVE MUSTIO: So let me try to understand this. Are you saying that people that are operating illegally and not reporting now will be enticed to go into a system that you just said will still enable them to not report? I'm a little bit confused as to why, as to what the motivation is here?

STEVE BREUNER: Let me clarify that. Jane is operating in her kitchen right now and not reporting any of the income that she's generating. I believe that if she has the option to go into a salon and rent a chair for 200 dollars a week, with a professional environment, with a receptionist, with heating and cooling, with somebody sweeping up the hair that she ---. More people than not will elect the professional environment and will see economically that they can make just as much money if not more in that environment than they can in their basements and their kitchens.

REPRESENTATIVE MUSTIO: Thank you

CHAIRWOMAN HARHART: Representative Gibbons

REPRESENTATIVE GIBBONS: Thank you Madam Chair. Mr. Breuner you talk about the salon suites concept; my understanding is that's you're involved in that in some other states. Can you just give a little description about what that salon suite concept is about?

STEVE BREUNER: You bet. And I'll do it as briefly as I can. To be clear, I am only involved as a real estate consultant in that concept right now because I am not allowed to operate

or be involved for at least another year under of my non-compete. But as a real estate consultant I can tell you that this is the number one growth segment in cosmetology right now. It is brand new and the suite concept is this simple. A 5,000 square foot area is built out with individual ready-to-go salon. Picture a hallway with 26 doors like an executive suite, but these are 1 and 2 chair salons; shelving is up, shampoo bowl is in; flooring, product, your own set of keys, a sign. And what's happening in other states right now and the firm that I'm consulting has 70 such locations across 14 states. What this concept is and I'm not even sure if this is a violation or not of the prohibition of booth rental but these individuals have their own 4 walls and they have their own salon ready to go. The biggest barrier to working for yourself in this business is that it costs a whole bunch of money to get started. You have to sign a 5 year lease in the shopping center. You have to fit out your space which can be anywhere from 10 to 80,000 dollars depending on how elaborately you want to build your salon. You have to stock your shelves with 1,000 dollars worth of product and at the end of the day most people cannot make this jump. Again, it's a dream. I believe booth rental, the suite concept, picture somebody wanting to work for themselves, they sign a licensing agreement for one of these studios; they don't have to spend a penny to begin cutting hair. Everything is ready to go. It's all done as a function of the lease that you sign and the weekly rent that you pay to the studio or the suite concept. There are probably 6 players in this game right now. There will be a massive proliferation very shortly. It reminds me of Supercuts in 1975, when there didn't exist any chain salons in the affordable category between the barber and the high end hair salon experience. The same thing is happening; picture your son or daughter having the opportunity to operate their own business with not a penny in expense. That's really at the essence of the suite concept is.

REPESENTATIVE GIBBONS: So when you're talking about these suite concepts it's breaking down those barriers to these people being able to open their own business. And it sounds like these are their own businesses. So I think it kind of goes to one of Representative Scavello's questions about worker's comp. These people are operating their own business so it's not much different if they rent a suite or possibly a booth as if they rented a space in a strip mall. They would be responsible for their taxes. They would be responsible for their workman's comp, that would be the difference. Whereas now, I guess in PA, now with the commission model you were talking about that salon owner is responsible, they basically become private entrepreneurs?

STEVE BREUNER: That's right. Unlike the Representative's question about booth rental; completely different model is the suite model, which has an individual just like renting 1,000 feet on Main Street at 101 Mockingbird Lane. They are in suite number 6 at Mockingbird Lane with their own 4 walls operating their own salon so it is not booth rental it's the suite concept.

REPRESENTATIVE GIBBONS: So the salon suite; it sounds like booth rental, kind of looks like booth rental but it's a little bit different. So you're saying it may or may not be prohibited by the current booth rental prohibition?

STEVE BREUNER: Correct. We have not even begun to do diligence on whether or not Sola could operate in Pennsylvania.

REPRESENTATIVE GIBBONS: So it may be possible to do it but I guess the elimination of the booth rental prohibition would, might lesson the questionability of the legality. Right now it's questionable, might be kind of a grey area. But I guess, would the elimination of the booth rental prohibition kind of maybe clear that up a little bit, whether or not the suite model is allowed?

STEVE BREUNER: It could but I wanted to stress one thing; I am not here on behalf of Sola. I am here on behalf of 2,500 people that I looked to who I looked into their eyes and worked with them for decades and realized that these are just great people that have entrepreneurial spirit and they have this massive block or hindrance between the opportunity of working for themselves and the opportunity of working for somebody else. They should have, I believe, they should have the option like they do in 48 other states.

REPRESENTATIVE GIBBONS: Thank you very much. Thank you Madam Chair.

CHAIRWOMAN HARHART: Thank you. Representative Goodman.

REPRESENTATIVE GOODMAN: Thank you. Very quickly, point of clarity, wouldn't this legislation have the complete opposite effect of what you just explained? Wouldn't it hurt the small mom and pop if we go into something like this? I would envision this would then be --- right now. I'm just going to use my legislative district. I have a lot small shops in small rural communities, wouldn't this, if this legislation is enacted, wouldn't this encourage very large salons to come into all of the shopping centers and buy up all of the space and then begin to rent to these very people, simply a chair? Wouldn't you now have; wouldn't you now be creating these huge conglomerate that now controls all of these small, wouldn't this in fact take the small business, hurt the small business? Firstly, they simply wouldn't be able to compete at the level as you just described. I mean you are talking about creating an environment that no single small woman business could ever compete with. Or am I just reading this the wrong way? I mean it sounds to me as if you are doing this the wrong way. I agree completely with Mario. I think that unemployment compensation, worker's compensation nightmare, but that left aside, I think we're actually hurting small businesses if we do this because they simply are not going to be able to compete with the person who has the large capital to go into a mall and buy space, and then

gobble up all these people, say you've got to come work for me or you're just not going to be able to compete or am I looking at this the wrong way?

STEVE BREUNER: Well let me clarify. Are you talking about booth rental right now not the suites concept that I just discussed?

REPRESENTATIVE GOODMAN: It was just whispered in my ear; it's kind of like the Wal-Mart of health care. Hair care, I mean. How are you going to be able to compete if you create this booth rental concept? How is a small independent entrepreneurial hair dresser going to be able to compete with somebody that comes into an area and simply buys up large space and opens up 20 different chairs and offers all of the amenities that come with it, the nails and everything else like that? Wouldn't you then in fact be killing a lot of the small stores that make up the businesses in my district?

STEVE BREUNER: It's a very valid question if I understand what you are saying. Hypothetically if in a mall, if in a large power center, a large booth rental salon opened up with say 12 chairs and each one of them were hypothetically rentable like we're talking about here? I can just tell you what's happened in the other 48 states is that the individual mom and pop, it's all about the operation that you have right now, the person has the choice of staying with the mom and pop because they are treated well, they are paid well, they are given flexibility on their working hours, they're allowed family leave, I just like the way that my proprietor takes care of me. Versus, the only reason you, a mom and pop will lose people, stylists, is because they're not happy. It's not because the economic model is necessarily better in the mall or in the 12 seat hypothetical new booth rental salon. At the end of the day it's about their job, their employment satisfaction, their relationship with the employer. So what's happened in these other states primarily is the two can co-exist. And especially in rural areas, it doesn't make sense for large

conglomerates to open business. They need a large volume in population density, but I don't really think I can elaborate too much more except to say that if the employee is not happy they will entertain other alternatives. That's what happened.

REPRESENTATIVE GOODMAN: Thank you Madam Chairman.

CHAIRWOMAN HARHART: Thank you. Before I defer here to Representative Readshaw; I forgot to introduce him at the beginning of the hearing, he is my counterpart, the Minority Chair of the Professional Licensure, Representative Readshaw and he does have a question.

CHAIRMAN READSHAW: Thank you Madam Chair. Thank you for being here and testifying Mr. Breuner and also for responding to questions. You had mentioned those operators that operate from their homes and obviously as most of us are well aware of there is a strong possibility of the operations being illegal. Do you have, does the industry have any estimates, numbers, as to how many of these illegal operations exist?

STEVE BREUNER: The industry does by state and nationally, I don't have those numbers at my fingertips. I would say that when I, over my career, when I've learned about those state by state or in certain regions when evaluating site selection and the viability of a, say, Supercuts in Allentown, it's astonishing and the number is usually larger than reported. For reasons that are endemic to the practice. Again it starts with hair, I mean if you could imagine some of the places where manicures are taking place, where there's bleeding, it's really disturbing. I don't have my fingertips on those but there are definite estimates.

CHAIRMAN READSHAW: Very good, thank you for your response.

CHAIRWOMAN HARHART: Representative Parker.

REPRESENTATIVE PARKER: Thank you Madam Chair. Mr. Breuner, just help me from a very sort of practical and pragmatic perspective because it's a little different. I represent a neighborhood in the City of Philadelphia and for us, particularly within the African American community; you know there is a constituency. The Latino Community, the Dominican Community, you know they have a constituency and they are very particular about where they, women are I know in particular, about where they take care of themselves. One of the things that we notice is that many minority stylists who find themselves employed by chain salons and I'm thinking about those that operate in most of our malls; they go there, they build up a clientele, gain much experience; work on a percentage basis or a commission basis. But the ultimate goal and dream of most of those individuals is to eventually leave the chain, take the clientele with them and open up their own salons. Tell me is that, is that different? Is that sort of what we're seeing outside of urban areas, that that is the desire of many of the individuals that have worked in the Supercuts that you are talking about? And do you think that it in fact will particularly will with the salon suite perspective, I'm thinking about it, I start the business, I don't have to worry about the startup capital, but eventually I out grow it, so if I've built up enough clientele maybe I can eventually leave the suite and go on to the Main Street corner and open up my own business, is that sort of the frame of thinking that you hear from individuals that you've employed through Supercuts and through your consulting?

STEVE BREUNER: There are two parts to your question. The first part I will address is; that what you are observing and describing in a more urban setting of Philadelphia is happening in all parts of the United States, not just geographically but urban, suburban, and rural. You can imagine in 20 years with 48 salons that I had this situation happen to me and it was a problem. People build up a clientele and then they want to go realize the dream of working for themselves.

Half of my heart says boy that's what I did. I understand exactly why you are doing it. The other part is; it's a business problem for me. It's a loss of revenue. But to answer your question, it's pervasive. It is in every state of the Union and this is how it works. Because as I described to you; from the very first day of beauty school there is this dream that I'm going to have my own salon like my Aunt did, like the person I heard about in beauty school. The whole reason I'm here is because I want to own my own salon someday. The second part of your question is that is if I understand it correctly, in other states this individual was with Sola for instance, the individual, the stylist comes to Sola, they spend not a penny to get started, they bring all their clientele and they find 3 things happen. I'm making more money than I've ever made before, number two, I've never had more control of my life because I work when I want, I do the customers I want, I don't have to do those 3 customers I never did like and never want to do again, I can get to my son's soccer game, I can sell the products I want to sell, I'm not told what to do anymore, my life is completely changed, all of the salon drama they have experienced is completely eliminated. So here they are in there own studios, living the dream, and it's very exciting. I'm a consultant in this thing and it's very infectious. I don't want to get off the track though of booth rental. But to complete my answer, very rarely have we seen people leave the studio to start their own salon because, think about it, it costs a whole bunch of money to do that. So you rent your space on Main Street and whatever deal you make you still have to paint and floor and do all the stuff, then you have to hire a receptionist. So usually what happens, to answer your question, and it does sometimes, but usually what happens is either they move to a larger studio with 2 chairs or it really doesn't happen, is what I'm trying to say, because of that expense; that capital problem.

REPRESENTATIVE PARKER: Finally, could you just tell me how does health insurance work, in the suite concept?

STEVE BREUNER: In the suite concept the health insurance is handled in 2 different ways; the individual can go contract and of course obtain their own *or* the suite operator or your landlord that's leasing you the studio can take their buying power and negotiate with a national provider and then make a plan available to the individual that they can elect to buy or not. But there's an arm's length relationship; meaning that this suite operator who is your landlord does not sell you the health insurance.

CHAIRWOMAN HARHART: I think we have time for one more question. Representative Day.

REPRESENTATIVE DAY: Thank you Madam Chair. Just to expand on Chairman Readshaw's question, you had testified that and you stressed that it may be the cornerstone of your support, that these weren't your words. But I will summarize it this way, there's an underground of hair care services providers out there that are not in the system, being taxed, competing fairly with the existing service providers and you've also said that booth rental may bring them out of the shadows and into the light and be accounted for, right? Many people in the industry will stay in the shadows for the same purposes they are there now. I'm curious what your opinion is as we're gathering information at a public hearing. What type of percentage of that underground in your professional judgment will come out of the shadows will come out and be employed in the booth rental situation?

STEVE BREUNER: I have thought about this a lot and I will answer you and say that I think we can expect at the bare minimum 40% of these people to be enticed to come out of what I call hair moonshine; to come out and operate in a professional environment once they do the

math. It's all about the math because the freedom is there if booth rental or the suite concept is a viable alternative. You have to empathize with them. They don't want to be told when to work and they don't want to be told who to cut. And so at the end of the day I think we can expect at least 40% because although they will theoretically pay more to rent a booth than they are in their basement. The upside of the experience for the customer is without a doubt extremely important. You get the reaction of *I was wondering when you were going to do this, you know I never really liked watching the mice crawl around in the basement while I was having my hair cut*, to be a little over-dramatic but I never really liked that. Although they will pay more, they get more and so do their customers. So I think 40% is conservative. Some people think it's optimistic but I am that way. You'd have to be to be the only one I anticipate that is going to be in favor of abolishing booth rental.

REPRESNETAIVE DAY: Well I do want to say thank you for your testimony today and I'm very supportive of the concept and idea. I'm concerned about safety, hygiene and health and the employment issues that we have discussed earlier today. So we need to flush out all of these answers and try to get to the bottom line. Thank you Madam Chair.

CHAIRWOMAN HARHART: Thank you Representative Day. Representative Kortz, and we do have to move on. Thank you.

REPRESENTATIVE KORTZ: Thank you Madam Chair. Real quick. Sir; you mentioned that all these individual cosmetologists really want to have their own place. In your experience what was your turn-over rate when you had your salon for 20 years? What did you see?

STEVE BREUNER: I had a remarkably low turnover and nationally within Supercuts people wanted to know what the secret was. And I said there's no secret. Pay them what they're

worth, treat them how they should be treated and respect them respect them and they will stay they won't leave. It's very simple, it works in subs, it works with pizza, and it works with widgets. Just be great employer. It cost more but it's worth it. So mine was very low and we looked at it one way, if the person didn't leave because their spouse was transferred to Florida and they didn't leave because they left the industry. Our number was about 4% that left us and about a percentage and a half of that ended up coming back. So I want to thank everybody. I have one more statement to make under the booth rental model you must make the salon owner responsible for all of the same things that a commission salon owner is. It doesn't work if they're not supervised and managed. Thank you very much for the time today.

CAIRWOMAN HARHART: Thank you very for your testimony. The next testifier I am going to defer to Representative Goodman. Would you like to introduce him?

REPRESENTATIVE GOODMAN: Thank you Madam Chairman. It's my pleasure today to introduce to the Professional licensure Committee a very successful businessman from my legislative district, Mr. Frank Schoeneman, is the CEO of Empire Beauty School and I don't want take anything from his written testimony but he does employ hundreds of people in my legislative district. He's right now in the process of expanding his facility and I'm sure all of you can agree that during these very difficult economic times any expansion or creation of jobs is a plus in anybody's legislative district. So like I said I don't want to take anything away from his testimony but I do know because so many of my constituents work for him that he is the type of employer that was just described today. He treats his people well, he pays them well and he's well liked in our community. Thank you Madam Chairman.

CHAIRWOMAN HARHART: Thank you, Mr. Schoeneman.

FRANK SCHOENEMAN: Hello everyone. Thank you Representative Goodman. I appreciate that very much; that's very kind of you. I will skip the first page just; I want to get into this as quickly as we reasonably can without, I know you have a time commitment and we're going to try to get through this quickly. But Madam Chairman, I also and I guess besides my day job, I have also been honored to have served a member of the State Board of Cosmetology and as a Chairman of the State Board of Cosmetology as well for 6 years. I enjoyed that time very much but one of the things I learned during that time was, good public policy has to be very, very; has to be considered with good sense regulations. And I say that because I don't believe that this is good sense regulations or not good public policy because I don't think there's good regulations to go with this. And what I mean by this and I am here to oppose 1571 because of the following, and I will do this quickly because I think it's better that we get into a dialog. Madam Chairman. You have the written testimony. We have some supporting documents. But my rationale is simply the following; one, it would be detrimental to consumer protection. Allowing booth rental will open up a new license category that will by definition require a whole new set of regulations and undetermined a number of new state inspectors, prosecutors and support staff to monitor, and inspect the compliance of the regulations and laws. In addition, the State Board Inspector; when the state board inspector goes to inspect the booth rental operation, there is great difficulty in determining exactly who is responsible for any violations that may be found. Who gets the violation? Who pays the fine? You've heard the questions by several of you here today and that's exactly the problem. The concept opens up a very big issue of finger pointing. Number two, the reason is, it's difficult to enforce laws and regulations between government agencies, having served on the State Board of Cosmetology and I'll go off here just a little bit because I think we can do it quicker. You have the State Board of Cosmetology that's

in charge of enforcing consumer protection. That's what State Board of Cosmetology is all about but what it needs is inspectors, it needs staff, it needs prosecutors as you all know. And unfortunately you hear this all the time from the Bureau of Professional Affairs and you hear it from the State Boards. We don't have enough inspectors, we don't have anywhere near enough inspectors to do what we've got to do now. If we add a new license classification without regulations we're going to have a very, very big problem. Number two, the ability to work through the Department of Revenue issues along with the State Board of Cosmetology issues is going to create a great deal of problems because the Department of Revenue would have the ability to say this is a legitimate booth rental operation. And what I'm talking about primarily is and employer/employee relationship or a booth rental a landlord relationship. And folks the more regulations you put on a person renting a booth and you heard Mr. Breuner say it and it's absolutely true, if you put certain regulations on to those people, it is no longer a rental situation. It becomes a de facto employee relationship. We will talk about this later but the IRS has very strict audit standards and the audit standards and the Department of Revenue has similar audit standards but they don't have it for booth rental in Pennsylvania obviously but they will have to do exactly this, if we allow this this becomes a whole new bureaucracy that we're going to have to create. And the problem is, if you go through, and I will be glad to provide this to the Committee as I should have made photo copies and I apologize, but I will provide this to Mr. Crawford and get this to you. But the bottom line is; if you say that, hey, I will pay your worker's compensation, you're not a renter anymore you're an employee. Okay, if I pay your taxes or if I pay your workers comp, or I pay your health insurance, you are now my employee, period. And the IRS is very clear on this, alright. So Pennsylvania would have a very big problem between the Department of Revenue and the Cosmetology Board and it's not going to

be easy. We don't have enough enforcement as it is. We talked about underground economy. It does exist in Pennsylvania. I know because I really tried to push that as Chairman of the State Board. The problem is you only have so many, as we know, State Inspectors. And by the way, they are going to go to a beauty salon today, or this morning, but this afternoon they are going to be in a funeral home. And you know the kind of problems we have. We only have a certain limited budget and I get that, so adding another license classification, we better be looking for more bureaucracy and we better be looking for more inspectors. Because I disagree with Mr. Breuner with all due respect, when you come out, you're going to have some people, you're right, that are going to go from their individual salon to a booth rental operation. There is no question there is going to be a few. But more people are going to go from legitimate salons to the booth rental operation because they're going to be able to have money under the table. So this is our problem and the ability to enforce it is to me the cornerstone of our issue here. Next issue and you can go back through this; number 3 and it's obvious that the Commonwealth's Treasury will be affected adversely. And I'm going to say this; the IRS estimates that 90% of all people operating under the status of booth rental could not pass an audit under present state or IRS guidelines. The laws for IRS designation of booth rental requires specific, verifiable components that are absent in most agreements. Remember all of this goes back to the agreement. So that means a state board inspector will have to come in and read the agreement. They will have to understand what exactly the relationship is. And the Department of Revenue, the United States IRS, and the State Board Inspector will all have to agree, this is indeed a rental situation as opposed to an employer/employee relationship. I'm trying to go through this quickly so we have more time for others to testify. I believe it would also be detrimental to existing salon owners. Representative Goodman asked the question and I've got to say that he's right on. The fact is

there are 13,973, just checked it, current as of right now, salons here in Pennsylvania. There are about 89,000 licensed cosmetologists but there are about 14,000 salons. The overwhelming number of those are individual, single operator, salons. They are in all of your neighborhoods. There's not a neighborhood in Pennsylvania that doesn't, somewhere, have some sort of small salon that's there and legitimate salon. These are people that are doing it the right way and that's the whole point here. They have been doing it right for all these years under the cosmetology law of 1933. They don't need a new business model; they've got one. It's called the *Cosmetology Ac.* It was in 1933 and since that time there have been thousands, tens of thousands of salons that have cropped up all over Pennsylvania. And guess what, they make it happen every single day. If this kind of a salon plaza opens up, what it's going to do is take that mall, local cosmetologist and put them at a terrible disadvantage. They've been doing it right. They have been paying their taxes, they get the State Board Inspector coming in and they know exactly, and believe me this doesn't matter if it's a big city like you talked about like Philadelphia or a small town like Frackville Pennsylvania, it doesn't matter, it's the same exact thing. It cuts across all neighborhoods and all income levels. So the problem is; it will adversely affect the single operator salon. It will also affect the legitimate salons that are paying taxes, paying workers comp, whether they're a Supercuts or whether they're Joe's Haircutters. If they have 5 people and 3 of them leave to go into the underground economy, folks this is a bad thing. This is a very bad thing for revenue. It's a very bad thing for the owners and the stylists as well. We can go through this; it would be detrimental to cosmetology students and cosmetology schools. As Representative Goodman said, we have 104 now open schools throughout the United States. There are 20 here in Pennsylvania, I'm very proud of that. This is our home state. This is where we started and this is where we have the biggest footprint. And in Pennsylvania folks, I will tell

you what our students think. There are those that want to have their own salon, just as Mr. Breuner said but most of them do need experience and they need to go out and work in a salon and build that kind of clientele and that's exactly what they need to do. But when they want their own salon they can get their own salon, we teach it in our schools every day. It's easy to do. It's not tens of thousands of dollars to open up a single chair operator salon. It's nowhere near that kind of money. Its a few thousand dollars and the people who want to do it will do it. The people who want to go underground, usually it's because they don't want to work every day, because they only have a little bit of time, it's a lot of single mothers that do this type of thing, it's a scourge as far as I'm concerned. But we need to focus on getting, finding out that those people are and getting them into the legitimate light. And it can be done but you don't have to create a whole new license classification. I believe in entrepreneurship, I am entrepreneur. I want more of my graduates to be entrepreneurs but I want them to do it legitimately. And we've got that, we've got a mechanism, currently called a *Cosmetology Salon* and there is no reason to change that model. And there's one other thing regarding schools. There's something called gainful employment. And I'll do this quickly but gainful employment is a whole new problem out of Washington, for cosmetology schools. And it simply says; and I won't bore you with the metrics are horrible, the bottom, it says if I borrow a certain amount of money I need to earn a certain amount of money in my career in order to be "gainfully employed". The problem is, and this is using Bureau of Labor statistics, US BLS numbers, if you use those numbers you cannot use an entrepreneurial situation. If you have a legitimate salon it's okay, but in a booth rental situation, if you're a booth renter you are not counted in the BLS numbers. What that means is the cosmetology schools ultimate would not be able to report them as a legitimate placement. And if they can't count them as a legitimate placement it means that we as a school, and Empire I'm

very proud of our performance, but it means that Empire will be in very, very big problems wherever those kinds of operations exists, because those students will then go to those locations and not be considered to be a legitimate employee. If that happens you are going to see schools close in Pennsylvania and I'll be honest with you, some of Empire schools will be jeopardized as well. This is going to cut off educational opportunities for potential students. I think it's a bad deal and ultimately will affect those students as well. So you can read it here and we have more of the metrics if you would like to see more of it we would be more than glad to do that for you. But I am trying to make it simple because honestly it's a very cumbersome set of metrics. But you've got to believe me it's going to create a problem for cosmetology schools in Pennsylvania and ultimately for future students that want to become stylists as well. So in conclusion I'm going to say regarding this bill, Pennsylvania can be very proud of our tradition of rejecting the harmful and costly practice of booth rental. As a Commonwealth we offer plenty of opportunities for cosmetology professionals to own their own successful business if they wish to under the current law. At the same time however, we now have in place the proper laws and regulations to safeguard consumer protection and to maximize tax revenues for the Commonwealth. And I urge you to reject 1571. And Madam Chairman, I just want you to know I just can submit it written, I have support here for both 1867 and 1868 and I've written our support of both of those bills.

CHAIRWOMAN HARHART: Okay you can submit that, that's fine and the other information that you have. If you see that Wayne gets that I'll see that the committee gets that.

FRANK SCHOENEMAN: Madam Chairman, I will make sure. It's simply the IRS, you can do it on line but I will get it so it's in written form for the Members as well.

CHAIRWOMAN HARHART: We appreciate that. Representative Gibbons you have a question?

REPRESENTATIVE GIBBONS: Just real quick; what I've heard, what's been brought up to me about this by some salons, I'm from a very small town in western Pennsylvania and salon owners and probably some stylists the two contradictions or concerns that they bring up is; one is the fact that as Mr. Breuner mentioned is, he said 48. I never did the exact research but the vast majority of states in my understanding do allow booth rental. And they say some of them feel that they are at a disadvantage because of that in Pennsylvania. The other thing is we've already, in a similar profession of barbering, allowed booth rental. I understand that certainly there are some differences but I guess why is it good there but bad in cosmetology? Or is it not good there?

FRANK SCHOENEMAN: Well I've got to say this, that the professional barbering and the professional cosmetology is a huge disparity in both in numbers and size of license base. As you know, you guys know this better than I do. Barbering is becoming a shrinking number as a percentage of hair care and cosmetology is becoming an increasing percentage of that. So I don't think that that is a model I would follow. And it is problematic. Just because somebody over there is doing it, but it's costing the Commonwealth revenue, I don't think it is a good model. And I'll be honest with you, there's many provisions of the *Barber Act* and I don't want to get into it, I think, that are very detrimental to the profession of barbering, which is a sad, to me it's a sad thing. But leaving that alone sir, I think that you can say that, hey 48 other states are doing it, well 48 other states are doing a lot of things differently than Pennsylvania. We've had a good model here for a lot of different things and this clearly is one of them. I've got to tell you that we get calls all the time, having been a former Chairman of the State Board I get calls all the time; how do we make this thing happen? And every one of those 48 states fell into this for a lot of different reasons because they truly didn't look at the revenue component. They didn't look at

the regulatory component. They didn't realize that they have to fight against IRS regulations along with their own Department of Revenue Regulations. And as a result of it, they fell into this. Once you let the Jeannie out of the bottle; once you change this and allow this to start happening, it only begins the cycle of the regulations, of the interoffice or interagency coordination and ultimately the kind of regulatory people, prosecutors, inspectors and everything else that, by the way, and it's not coming from an increasing amount of dollars, of license dollars, it's the opposite it's going to be detrimental to us. So I understand that 48 other states have it. New Jersey and Pennsylvania are the only 2, but I'm telling you that almost every one of those other states have a movement right now to try to get rid of booth rental because it is not good public policy. And it ultimately is not good for the participants of it. There are a few people that gain out of it and these big salon plazas and that's the motivation here, the big salon plazas make a lot of money. There's no question about it because they don't have to deal with all the hassles you have with having employees. And that's really what it's all about because everybody can go like this and that's imagine you were a State Board Inspector, that's all I want to leave you with on this; imagine you're a State Board Inspector walking into a salon plaza and now you have to say well let me see all of your agreements; I need to read them. I understand I have got to know who's doing this, who's responsible for this, who's responsible for that, and oh by the way does it comply with IRS? Does it comply with the Department of Revenue? We don't have the horse power in Pennsylvania, unless this Committee and this state, and I'm telling you we're not; ready to put this kind of dollars into the inspectors and the bureaucracy. That we're going to have to have, that's our problem. I hope I answered your question.

REPRESENTATIVE GIBBONS: You did. Thank you very much I appreciate it.

CHAIRWOMAN HARHART: Representative Mustio.

REPRESENTATIVE MUSTIO: Thank you, thank you for your testimony. On page two of your testimony you talked about the confusion when the inspector I guess, the inspectors, that we still would have, time to go look at these operations, would have when they found a violation. Could you kind of give me an example or explain in more detail.

FRANK SCHOENEMAN: Absolutely. For example if you walk into a salon, I mean when I was on the board, a lot of the problems were like people would leave hair for example on the floor. It's very unsanitary. It's a problem. Or things such as open toed shoes with the stylist, it's considered to be, it's not a good thing. Or there's a lot of little different regulations that exists in our cosmetology law, all designed for consumer protection. The problem is, if the inspector walks in and sees that problem, the question is do I write you up because you're standing next to the hair? Do I write the owner/landlord up because it was in the salon? The problem is, if I'm a owner/landlord and you're my employee I'm going to say you better keep that hair cleaned up. And if you say, that's fine I'll take care of it and the inspector walks in and the hair isn't cleaned up, or let's say the hair has now migrated to the middle of the floor, or it's not exactly in your booth, or whatever the case might be, the finger pointing just begins. Who do you write the fine up to? Right now it's real easy if you're my employee, I get the fine, I get written up. It's as simple as that. You're my employee and, I'm responsible for you. But if somebody walks in, in that environment and the landlord say wait a minute, page 14 of our agreement say you pick up your own hair and he didn't pick up his hair, the State Board Inspector has, I mean you've got a myriad of regulations that you're going to have to create. You have no choice, you must do it. Otherwise you're sending this inspector into a quagmire of problems, plus you're going to make them a paralegal because you're going to have to make sure they have one of these agreements

for every single one of the booth operations that they are going to be going into. I'm telling you we're not ready for this.

REPRESENTATIVE MUSTIO: On page 4 you talk about the IRS. They estimate that 90% of all the people operating would not pass an audit. Why does the IRS let something like that continue?

FRANK SCHOENEMAN: That's a good question and I don't want you to misunderstand me. It doesn't say that 90% of the booth rental operations are 100% wrong. It simply means that there is a matrix here. And you'll see it, read it on your own, and the staffs read it and you going to see that to be a booth rental, a legitimate booth rental operation there's a lot of things that simply say, that if you tell me, if I tell you as an employee of mine in my booth rental operation that you must show up at a certain time, or you must wear black or anything for normal decorum in a salon; if I tell you any of those things under IRS, you are not an independent contractor. So it's real easy to violate this and you'll see why.

REPRESENTATIVE MUSTIO: One final question Ms. Chairman. The prior testifier said that these operations existed in 48 states. You've indicated that your schools are in how many states?

FRANK SCHOENEMAN: We're in 23 states now.

REPRESENTATIVE MUSTIO: 23 states. I thought I heard in your testimony you said that these types of operations would have an impact on your education facilities. What type of negative impact have they had in the other states, where they co-exist?

FRANK SCHOENEMAN: It's very bad and the reason why, Mr. Breuner and I totally disagree philosophically and I mean we totally disagree philosophically, but basically what happens is this encourages students to go into an underreporting or an unreporting situation. And we're fighting this in every single state and we have and we're going to have jeopardy under gainful employment. And the irony Sir is these people are not only gainfully employed but they are doing very, very well. The problem is and believe me people will do well in a booth operation salon just like they do in an independent salon or they do working as an employee. It's a great profession and there's a great need for them. The problem is and the problem we have in those other states we're in and that's in 21 of the 23 states is, these people go into the

underground economy and they disappear, it's as simple as that. We can't operate a cosmetology school if we don't have the right gainful employment numbers. And I just don't want to see this happen to Pennsylvania. It's our most important state, it's our home state and it will affect the largest amount of students. And believe me it effects a lot of students in this Commonwealth, it really does.

REPRESENTATIVE MUSTIO: Thank you Sir.

CHAIRWOMAN HARHART: Thank you, Representative Helm.

REPRESENTATIVE HELM: Thank you. Representative Gibbons pretty much asked my question and you pretty much answered it. However, the beautician I have gone to for years, she started out in a barber shop, renting a space, then she as we talked, her dream came true she opened her own shop and she does hire other beauticians, however, every time I go in she still asks me am I ever going to rent some of these chairs out,? Because she still feels she could make more money if she rented the chairs out other than having the responsibility of paying all the bills for these other beauticians. And I think you answered the question pretty well but can you just go a little bit further with that so I have a good answer?

FRANK SCHOENEMAN: No, no, no. I understand that and believe me, I had a chain of 36 salons in, mostly in, overwhelmingly in Pennsylvania from Pittsburgh to Philadelphia, and I sold those salons about 4 years ago, my brother and I to Regis Corporation, the home company of Supercuts as a matter of fact. When I did that believe me there were days that I understood exactly what she was saying. I had chairs that didn't have people because it was hard to hire people. It's not always easy to fill a chair and you figure, wow, if I could just rent it out... It's an easy way to do it and I don't want to say it, I don't want to insult your friend but it's a lazy way out of it as well. Because I don't have to worry about it; I don't have to deal with it; I don't have to pay your taxes; I don't have to report anything, as far as it's a fool's errand. I think because ultimately it creates more problems than it allows, than it solves. I understand her desire not to have employees because if you bring people in and they don't report their income it's not my problem, that's the thought. Or if I bring people in I don't have to worry about if they show up on Thursday or not or when I have a client walk in I can't make them take the client or whatever. The reality is, it's not going to solve her problems and I understand the desire for it but it doesn't work. Let's forget that for just one second, where were those people going to come from that work, that now rent a chair in her salon? Most of them are going to come from the legitimate

salon world. They are not going to come from the illegitimate salon world. The people that are underground folks are people that are only cutting now and again; they are not cutting every single day. As a matter of fact, when I was on the state board, it's easy to find those people that have a full service salon that are illegal and don't, that aren't licensed because there's a lot of opportunities to find them. The problem is, the people and the people that we have the most problem with the underground economy in Pennsylvania, are the people that are not in a rat infested basement. I mean that's a little over dramatic. The reality is they're cutting in their kitchen and they're cutting their next door neighbor or they're cutting somebody down the street, and they are doing it a couple of days a month or whatever. Those are the people, it adds up to real money after awhile and I understand your friends concern I really do. But it's not going to solve her problem, that woman by the way, or man, is not going to leave the confines of their home and suddenly go and work in a booth rental operation. They're going to come from the salon chains; they are going to come from the legitimate salons of Pennsylvania that you'll hear from later. That's where they going to come from and it's going to take them out of the legitimate world, into the illegitimate world, or the underreporting world. And I don't want to see that happen and none of us what to see that happen and none of us want to see that happen because we're legitimate tax payers.

RERPESENTATIVE HELM: Thanks.

FRANK SCHOENEMAN: Thank you, Madame.

CHAIRWOMAN HARHART: And because we're limited for time, there is one more question and will have to be one more question. Representative Brooks.

REPRESENTATIVE BROOKS: Thank you. Madam Chairman, in your testimony you referred to the difficulty of oversight and enforcement. What are the other states doing, have they determined whether it's the person that owns the salon or that the person that leases the booth that is responsible?

FRANK SCHOENEMAN: Again, you heard Mr. Breuner say it. It depends on the state, there's a myriad of regulations and what they've had to do is, it's all been organic all regulations on booth rental has become organic, meaning it was allowed then, oh crap, we got this problem and the State Inspectors are going in and they've got that problem. The problem is, what they've done is they have created, and I've seen many of these, and it's the metrics of different regulations that simply say that if the Department of Revenue say it's not legit, then it's not legit

so it goes onto this list over here. It's more expensive by definition, it has to be. I mean logic tells you if you have a different business model it's going to require a whole new set of regulations. Well you're going to have to make a decision. If we do this we're going to have to make a decision of what are those regulations going to be to allow this kind of thing to happen. So I don't know how to say it any other way. How do they do it? They're doing it through a hodgepodge of regulations that exists. This started in California is really where this all started, and California had serious problems with this. And as it's moved across the nation it's always, let me say this, it's a very compelling argument to say that somebody wants to be entrepreneurial; that's what this country was built on. I understand that, that is exactly what this country was built on. But the problem is in Pennsylvania we've always had a great way to do it themselves, it's called the salon. And I know I used to sell beauty salon packages. They're really cheap; you can put in for a couple hundred dollars, a couple pieces of furniture into a space that would be available and essentially have the same thing. We have the regulations for that but we don't have the regulations for booth rental. And we're going to have some serious work to do if we go ahead with that and I urge you one more time, if we're going to do this, and I urge you not to do it, but if we're going to do it, then I hope that you don't, that this bill would have along with it all of the laws and regulations that would be required to manage this megila, cause it's going to be a big one. And my biggest concern as a taxpayer in this community is the fact that we're going to lose revenue and we're going to have consumers that are not well protected by this. Because you can do this every single time there is a violation, you can always re-say but it's the landlord, he told me he's going to do that, or no I'm sorry I didn't say that, look at page 14. And that's the problem we're going to have and that's why I say we need to have regulations and if we do, you're going to have to pick from a bunch of different states that are themselves struggling through this whole thing as well.

CHAIRWOMAN HARHART: Okay, thank you. Thank you for your testimony Mr. Schoeneman, thank you very much. Okay, next our testifier will be Deborah Dunn, Director of the Lancaster School of Cosmetology. Ms. Dunn, you may begin whenever you are ready.

DEBORAH DUNN: Thank you. Good morning, my name is Deborah Dunn. I am the owner and the President of the Lancaster School of Cosmetology and Therapeutic Body Work in Lancaster Pennsylvania. I am also currently the President of PAPSA; it's the Pennsylvania Association of Private School Administrators, the State Association representing 150 private

career colleges and schools, including post secondary cosmetology schools and programs. This morning I'd actually like to start because it's fairly quick with House Bill 1867 and 1868 because we are so excited about these two bills, I would like to provide just a little bit of testimony as to why. Allowing a licensed massage therapist to practice in the licensed space of cosmetology or esthetics will actually add to the economic growth and tax base of Pennsylvania. And I'd just like to provide just two quick examples; we had a yoga studio in York that wanted to add esthetic and massage services. They had one space to do this. As they moved forward and actually they called us about it, they found out they could not legally provide both services in that one space. So as a result it decreased their income and decreased the tax revenue for them. They had to pick one or the other at that point. We also have many graduates that become dually licensed in aesthetics and massage and they do have a goal to open their own spa, which actually you can legally do in your home, with the current cosmetology law, but with limited start up resources the ability to offer both services in one space until they have the resources to expand makes the goal a little more difficult, having two different spaces, two different sets of equipment, just a little bit tough. So without the dual option that goal is delayed and once again the personal income and the tax benefits are delayed. With the current proposed language, it's not exactly what we were looking for in the beginning because it's a bit too broad. But we would like to continue to work on language to allow licensed massage therapist to provide services within the licensed cosmetology or esthetic space. The state board of cosmetology could then work on the specific regulation to further protect the consumers. And now that massage therapists are licensed it's a natural progression and it does make perfect sense. With testimony, Bill 1868 really exciting to allow our students to possibly test sooner, allowing an applicant to take the theoretical part of their licensing exam is an outstanding step forward in getting more students licensed faster and thereby becoming taxpaying employees sooner. The only addition we would like to make to this amendment is to include all limited licenses according to the following; with estheticians doing testing at 250 nail technicians at 150 and teachers at 400. We firmly believe that once people have taken the theory part of the exam they can hone their skills through practice, observation and feedback from the faculty. This allows them to focus on skill building, putting theory into practice and thereby protecting consumers even further. And booth rental, certainly the most interesting discussion today; booth rental may seem to be a way to expand the salon business, but it comes with many unintended consequences. With a lack of any oversight

booth rental can be detrimental to consumers and it supports an underground economy. Simply eliminating the ban opens the doors for fraud and abuse unless a great deal of additional oversight can be developed. It basically is creating a salon within a salon and the consequences could be great. Right now section 7.64 of the State Board of Cosmetology Regulations assigns the primary responsibility of administration of the business and personal affairs of the salon and compliance within the salon, with all the laws of the Commonwealth, this chapter in the Pennsylvania Human Relations Act, it also subjects the salon owner to disciplinary action if there is a violation. Without the employer/employee relationship the salon owner will have no control over the administration of the business and personnel affairs of the salon. And therefore the Cosmetology Board will have little recourse for violations of the codes. Section 7.71 of the State Board of the Cosmetology Regulation outline equipment requirements for each cosmetologist, if booth renters within the salon do not supply each of these 16 items that are required right now, the safety of each and every client is in jeopardy. Section 7.8, 7.82 and 7.83 address the rendering of services outside of a salon, further protecting the cosmetology, cosmetologist, excuse me, from liability in the event of an unexpected incident. Without the employer/employee relationship, salon owners will not be able to implement policies in this regard and will not be able to police the booth renters activities outside the salon thus exposing the general public to unsafe conditions. Severing the employer/employee relationship makes it impossible to implement and enforce drug and alcohol policies, ethics policies and confidentiality policies among booth renters, putting again the client safety and personal information in jeopardy. Will booth renters be required to carry professional liability insurance, as salons owners do? We've talked about Workman's Comp and Unemployment, but what about professional liability and how would the consumer know if they carry it or not? Who would police booth space to make certain sanitation or licensure standards are met? Will the current burden be on state inspectors? Where will the dollars come from to train state inspectors in the new aspect and to hire more inspectors to keep up with the booth renters? It's difficult for them to keep up now. In addition, how would an inspector know when they walked into a salon, if somebody is a booth renter? If they merely ask, it certainly would be easy for somebody that is trying to hide the income to say, *oh no, we don't have any booth renters here*. Currently salons create jobs and pay taxes plus maintain sustainable businesses in communities. This bill will not only impair and diminish the investment of existing businesses; it may prevent many existing

and new businesses, the incentive for future expansion. Booth rental can create an underground economy with a cash business. I don't agree that people will come out of their home if in fact they're already operating illegally and move to a booth rent and operate legally. I do not imagine that will happen. If you ask me the question, my answer would be 0% will do that. As a school, the lack of oversight is a problem for us. Agreeing with Mr. Schoeneman, we are required to track graduates, their place of employment and salary information. Booth rental makes this very, very difficult, to the point that Federal oversight could come into play with the schools. And also, when we talk about the suite concept, I didn't think about this before but currently in place right now, all a licensed cosmetologist has to do is rent 180 square feet of space. I suppose they could do that from somebody that is renting out a suite and again as Mr. Schoeneman said, you can actually outfit a 1 or 2 chair salon, you can outfit that for less than 2,000 dollars, so renting the 180 square foot, I'm not exactly sure when they can already live their dream of opening their salon with 180 square feet, less than 2,000 dollars, why we needed to reinvent the wheel by adding booth rental with it. And with using the current law and regulation our consumer safety is much more insured. So I want to thank the Committee for the opportunity to testify this morning.

CHAIRWOMAN HARHART: Thank you Ms. Dunn. Due to the time I think it's really important that we hear the testimony. So I'm going to ask the Members to hold their questions and if you have any questions to submit them to Wayne and he will get he answers for you. Would that be alright? Okay, thank you. We will now have Mr. Malcom Bonawits of Malcolm's and Henry Pelusi of the Studio of Excellence. Welcome gentleman and you may begin whenever you are ready.

MALCOM BONAWITS: Thank you Madam Chairman. Committee Members, thank you for scheduling this hearing. My name is Malcom Bonawits and I own a chain of 10 salons in Monroe, Lackawanna, and Luzerne Counties employing over 100 licensed stylists. I have been in business for the past 35 years and I am myself a licensed hair stylists. I also served on the State Board for 6 years. I wish to address proposed bill number 1571. This is a bill that is limited to outright repeal of the law without an adequate guidance as to its replacement. This is often bad public policy. If a bill like this were to pass it would result in an enormous amount of ruin for the professional cosmetology industry in this state. In the terms of licensure, consumer protection, commerce, unfair advantage over employee based license businesses, liability, tracking and enforcement, Pennsylvania is the envy of all other 49 states. The booth rental concept started in

California 20 years ago and has slowly moved into other states. Most states never saw this coming, except for Pennsylvania. The professional salon and school industry in Pennsylvania lobbied heavily in 2001 to get our current bill passed and signed into law by Governor Ridge. It was a bipartisan effort led by the leaders of both the House and the Senate once they understood all the negatives of the term booth rental. Owners of booth rental salons are basically landlords. They rent chairs to people and there are many instances of booth renters not even being licensed as cosmetologists. Unlike my business a booth rental salon owner carries no unemployment insurance, workman's comp, liability insurance, nor health care insurance. In addition a booth rental salon owner does not track sales of services, products and gratuities. With the resulting lack of accountability of revenues and therefore for applicable taxes that legitimate business owners like me must be responsible for. Booth renters are not employees, they are independent contractors. The majority pay no taxes or insurance of any kind. If a client comes into a booth rental and experiences damage either by chemical service, skin burn, rash, nail fungus, etc. the client has no recourse. They can try to sue and report them to the State Board of Cosmetology, but who can they really sue? Certainly not the owners of the booth rental salon; they carry no insurance, nor are they required to. The renter usually just packs up and moves on to another booth rental salon. The consumer is left with no form of redress. The salon cannot require the renter to adhere to any type of dress code, what products to use and what hours to work or provide any type of continuing education. If they did then the IRS would classify the renters as employees. Booth renters usually only deal in cash, they don't take checks or credit cards, if they did then the IRS and the State could track them. With regard to unfair advantage over a licensed salons, I as a salon owner who legitimately employees over 100 licensed cosmetologists, could not compete with this business, nor could any other salon owners like me. As legitimate employees we must insure our employees are dually licensed, we must carry unemployment insurance, workman's comp, liability insurance and perhaps soon mandated to carry health care. In addition we have to track and report sales of services, products and gratuities, and are responsible for the payment of all applicable taxes such as FICA. In terms of enforcement, passing of this bill would place an enormous burden on a system that already has its own internal problems. For the local towns and municipalities the amount of money lost in occupational and wage taxes would be enormous. The State and Federal Governments would also lose revenue in the form of unpaid taxes on undeclared income. I hope this helps you better understand how

devastating the booth rental practice is not only to the professional salon industry and the business insurance community but most important to the consumers of Pennsylvania and to the State and Federal Governments. As for us legitimate salon owners, the number one benefit of booth rental salon owner offers a booth renter is something that I cannot and would never offer. You as a booth renter will never have to pay taxes on any income, services, gratuities or the sale of products. Thank you.

HENRY PELUSI: My name is Henry Pelusi and by the way it's spelled Pelusi. Our business has been; we've been in business for 46 years. We have 12 salons in the Western Pennsylvania market. We employ about 250 team members; we have members that have been with us for up to 39 years, with our company. Also I've been a member of the International Salon Spa Business Association Network for at least 25 years and I've been a Board Member for at least 10 years I've been on the board. The International Salon Spa Association has salon groups across the country and they include J.C. Penny, Regis and so forth and so on. We're talking about many, many salon groups where we have the ability to receive feedback regarding what goes on in the industry from many different sources available to us throughout the United States. Regarding being a licensed qualified Management owner, salon owner, I'd just like to bring up a few points regarding that issue that is very important to consider. The licensed salon management people that are qualified to manage can provide and do provide many of them the various insurances that are very important to employees, like health insurance, life insurance, disability insurance, dental insurance and eye insurance. Just some of the things to consider that the management of a qualified salon provides and can provide. They also record and report sales, payroll to the government agencies and needless to say they do pay their taxes, which need to be paid. And they do make payments to the various funds, social security, unemployment insurance and worker's comp insurance that needless to say is very, very important not only to the salon owners but to the salon employees and the cosmetologists. The feedback that we receive at the International Salon Spa Association regarding booth renters is that many of the booth renters have not been educated nor do they understand and if they do know of their responsibilities regarding their obligations to pay sales tax, social security or worker's comp, to be insured or health and accident issues, they do not report the pay. That's pretty much the feedback we receive across the country from the various members. As a result the individuals do not receive the benefits they need in the event of an illness, an accident or retirement benefits for the future.

Education; that's a very big issue in this industry; an example of this, most salons who have not qualified I should say, most salons who have qualified managers did not provided the keratin services which contained the formaldehyde issue. The booth renter landlord would have no responsibility regarding the products used or how they are, especially the concern regarding chemical products which also includes shampoo, styling aides, hair coloring, perm, relaxer products, and so forth. The Chemical issue is very, very important to consider which has not been brought up here at all as far as supervision is concerned. The keratin service was being provided for approximately 2 years before the press made the formaldehyde issue general public knowledge. And because of this, changes were made to alter the product within the industry. Incidentally, we also manufacture our products and we have products manufactured here in the State of Pennsylvania and we do sell to other salons across the country. In retrospect the Commonwealth of Pennsylvania State Board and Legislators had the wisdom of these concerns for consumer safety and made a law to not allow booth renting which was a wise decision. Knowledgeable qualified management who has a licensed salon is in a better position to receive updates regarding new products and the chemical ingredients. And education, let's discuss the cost of education just for a moment, education is very expensive. I just made a recent brief study for education costs and considered that what I am discussing right now is group training. It is not individual one on-one training. For example, if you go to the international beauty salon, the international beauty show in Las Vegas, the cost for attending for meals, we have to pay for the educational; for the hotel and plane fare, it comes out to about 685 dollars a day; in New York 656 dollars a day; if you go to the Vidal Sassoon in Los Angeles 805 dollars a day; if you go to the Vidal Sassoon Academy in Chicago it's 700 dollars a day. When you consider these expenses, the qualified licensed salon management pays for this training and then at no charge provides this training to their hairstylist employees. That's one strong thing to consider. Local distributors provide group training and they pay for their trainers to keep current regarding their product's changes and new products. That's another way that education is being brought to the individual stylist. Now what you have to consider is how they can provide this training to individual booth rentals or booth renters I should say. They really could not afford to provide the individual training as opposed to group training. It would become very, very cumbersome. Also consider the salon inspection; would be a nightmare. My guess is that inspectors that inspect salons and see if they are following State Board Regulations would have to increase. My guess is

a minimum of 4 times, as each booth renter would have to be inspected as opposed to the salon itself and the salon license management. The booth renter can sit back in a very comfortable chair and collect rent while the tax payers would pay to inspect and to see if the State Board Regulations are being adhered to, provided that the booth renter is able to build a clientele and afford to pay high turnover. I'm talking about the booth renter themselves because you can anticipate high turnover because of the lack of supervision. One can assume that a person who has limited knowledge and limited resources would have a hard time to be a successful booth renter. And also consider having the time to keep accurate records regarding sales, tips and pay taxes, as so forth. As I stated consumer safety is an issue and I ask you if you've ever seen a head damaged by a chemical service? Just imagine putting your head in a fire because that's what it look like. In our company we have 40 classes for training for any stylist that starts with us and we have a skill certification program free service provided. And technical supervisors in each salon and then we do provide continuous education. My question is what does a booth renter offer to the consumer? Again I state the Commonwealth legislation made the right decision regarding booth renters and keep it not legal, do not approve 1571, thank you.

CHAIRWOMAN HARHART: Thank you Mr. Pelusi and Mr. Bonawits, I thank you for your testimony and as I said since we're on the floor right now any members have questions, please send them to Wayne and we'll get them answered for you. So I appreciate everybody coming. That concludes this hearing and I thank everybody for their testimony.

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