

IMPORTANT INFORMATION REGARDING MANICURISTS

The following message is being provided to you on-behalf of the Department of Industrial Relations.

The Board of Barbering and Cosmetology cannot answer questions regarding labor laws.

A worker that is considered an “employee” or “W-2 worker” is entitled to many workplace protections under State labor laws.

Generally, a person providing nail services in a nail salon is an “employee” and the employer must follow certain rules in CA law. For example, employees must be paid at least minimum wage, allowed meal and rest breaks, able to earn overtime and are entitled to sick leave, among other rights and protections under CA law.

An “independent contractor” (sometimes referred to as a “1099”) does not have the same protections as an employee under State labor laws. Just because your boss calls you an independent contractor, does not make you one. An independent contractor must hold a local business license, set their own service rates and schedules, and be paid directly by the client. An employer may be subject to penalties for misclassifying a worker.

Beginning in January 2025, the rules for manicurists regarding independent contractors will slightly differ from those applied to other BBC licensees.

Beginning January 1, 2025, the ABC test (Labor Code sec. 2775(b)(1)), will apply to manicurists,

According to the ABC test, manicurists working at a nail salon will be presumably an employee, unless the employer can prove ALL of the following are true:

- A. The worker is free from the control and direction of the business owner in connection with the performance of the work;
- B. The work provided is outside the usual course of the hiring business owner;
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same type as that involved in the work performed.

So for instance, beginning January 1, 2025, if you are a licensed manicurist, and you provide manicure services at a salon, you are an employee, and must receive all the rights and protections of that employment status including minimum wage, sick pay, meal and rest breaks, overtime pay and workers compensation insurance coverage.

For general information, please visit the frequently asked questions on the website:

<https://www.dir.ca.gov/dlse/DLSE-FAQs.htm> or contact the Labor Commissioner’s Office at 833-526-4636.