



HOUSE OF REPRESENTATIVES

H. No. 398

BY REPRESENTATIVE YAP (S.)

AN ACT PROVIDING FOR THE MANDATORY PREGNANCY TESTING
OF ALL WOMEN OF CHILDBEARING AGE WHO WILL
UNDERGO COSMETIC SURGERY, PROVIDING PENALTIES
THEREFOR AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 SECTION 1. *Declaration of Policy.* – It is hereby declared the policy
2 of the State to ensure the well-being of patients, especially the protection of
3 pregnant women and the right to life of a child from conception to birth,
4 against the potential dangers of cosmetic surgery procedures.

5 SEC. 2. *Objectives.* – Towards this end, the State shall provide for the
6 mandatory pregnancy testing of all women of childbearing age who will
7 undergo cosmetic surgeries and shall ensure the safety of all patients from the
8 harmful effects that may be caused by cosmetic surgery procedures through a
9 disclosure requirement on the potential dangers of such procedures.

1 SEC. 3. *Definition of Terms.* – For the purpose of this Act, the
2 following terms shall be defined as follows:

3 (a) *Childbearing age* shall refer to the age group during which period a
4 female is capable of procreation.

5 (b) *Cosmetic surgery* shall refer to a subspecialty of medicine and
6 surgery that distinctly restricts itself to the enhancement of appearance through
7 surgical and medical techniques and is primarily concerned with maintaining
8 normal appearance, restoring it or enhancing it beyond the average level
9 toward some aesthetic ideal. It is a multidisciplinary approach that is directed
10 to all areas of the head, neck and body.

11 (c) *Cosmetic surgery practitioner* shall refer to a registered physician
12 or a medical associate duly licensed by the Board of Medicine of the
13 Professional Regulation Commission (PRC) offering expertise in a broad range
14 of cosmetic surgery services.

15 (d) *Human Chorionic Gonadotrophin (HCG)* shall refer to the
16 hormone produced during pregnancy which appears in the blood and urine of
17 pregnant women as early as ten (10) days after conception.

18 (e) *Medical practitioner* shall refer to any physician, nurse or midwife
19 who is duly registered by the respective Boards of the PRC and who is capable
20 of administering accurate pregnancy testing.

21 (f) *Pregnancy test* shall refer to the procedure in which the hormone
22 called HCG is measured.

23 (g) *Unborn* shall refer to an offspring of human beings that is still
24 existing in the mother's womb.

25 SEC. 4. *Mandatory Pregnancy Testing.* – The State shall, in the
26 interest of ensuring the well-being of pregnant women and protecting the
27 welfare of the unborn, require all cosmetic surgery practitioners to subject
28 women of childbearing age who shall undergo cosmetic surgery procedures

1 that may be harmful to pregnant women and the unborn to a mandatory
2 pregnancy testing. The test shall be administered by the cosmetic surgery
3 practitioner or any medical practitioner who shall certify to the veracity or
4 authenticity of the test: *Provided, however,* That women who have been found
5 to be infertile or incapable to reproduce based on objective criteria as may be
6 supported by a certified medical record shall be exempt from the provisions of
7 this Act. Objective criteria for ruling out potential pregnancy include total
8 hysterectomy, bilateral tubal ligation or the passage of at least one (1) year
9 without menstruation or menopause. Potentially harmful types of cosmetic
10 surgery include those that require the administration of general anesthesia
11 using inhalational anesthetic gases and other types of sedating drugs given
12 intravenously or orally to patients to induce anesthesia, and those that will
13 require the use of post medications that may be harmful to pregnant women
14 which would include, but not limited to, liposuction of the abdomen, arms,
15 thighs, submental areas, a combination thereof or involving the whole body,
16 tummy tuck or abdominoplasty, breast augmentation, mastopexy and butt
17 augmentation.

18 *SEC. 5. Conduct of Pregnancy Testing.* – The test shall be
19 administered primarily for the purpose of determining pregnancy by collecting
20 or extracting blood serum from the woman. Pregnancy testing may be
21 qualitative in order to determine the presence of HCG hormone or quantitative
22 in order to measure the extent of HCG present in the body.

23 *SEC. 6. Mandatory Disclosure of Potential Risks of Cosmetic Surgery*
24 *Procedures.* – It shall be the obligation of the cosmetic surgery practitioner to
25 make a reasonable disclosure of available choices with respect to a cosmetic
26 procedure and to inform the patient of the precise and potential dangers
27 associated with the procedure and the possible dangers of undergoing such
28 procedure when a woman is pregnant. The cosmetic surgery practitioner shall

1 explicitly advise in lay terms or in a manner that the patient can give an
2 informed or intelligent consent to such procedure. An informed consent form
3 shall thereafter be signed by the patient before undergoing a cosmetic surgery
4 procedure.

5 SEC. 7. *Prohibited Acts.* – The following acts shall constitute an
6 offense punishable under this Act:

7 (a) Failure of the cosmetic surgery practitioner to inform the patient of
8 the potential dangers of cosmetic surgery procedures as prescribed under
9 Section 6 of this Act;

10 (b) Performing cosmetic surgery procedure on any woman of
11 childbearing age without the required pregnancy test; and

12 (c) Performing cosmetic surgery procedure on any woman who has
13 been positively found to be pregnant even when there is full disclosure or
14 signed waiver of the right to sue over a denied and undetected pregnancy on
15 the part of the woman.

16 SEC. 8. *Penalties.* – Any person who shall violate any provision of
17 this Act shall suffer the penalties as graduated hereunder:

18 (a) For the first conviction, the penalty of reprimand, which shall be
19 officially recorded in the appropriate books of the PRC and the Philippine
20 Medical Association;

21 (b) For the second conviction, the penalty of fine in the amount of not
22 less than Five thousand pesos (P5,000.00) but not exceeding Ten thousand
23 pesos (P10,000.00) at the discretion of the court;

24 (c) For the third conviction, the penalty of fine in the amount of not
25 less than Ten thousand pesos (P10,000.00) but not exceeding Twenty thousand
26 pesos (P20,000.00) at the discretion of the court and suspension of the license
27 to practice the profession for ninety (90) days; and

1 (d) For the fourth and subsequent convictions, the penalty of fine of not
2 less than Twenty thousand pesos (P20,000.00) but not exceeding Thirty
3 thousand pesos (P30,000.00) at the discretion of the court and suspension of
4 the license to practice the profession for one (1) year.

5 In case of conviction resulting in the death of the mother or miscarriage
6 of the unborn, a fine of not less than Thirty thousand pesos (P30,000.00) but
7 not exceeding Fifty thousand pesos (P50,000.00) and a penalty of suspension
8 of the license to practice the profession for not less than two (2) years but not
9 exceeding five (5) years shall be imposed at the discretion of the court. If the
10 cosmetic surgery practitioner is affiliated, associated or connected to any firm,
11 partnership, corporation or other juridical entity offering expertise in a broad
12 range of cosmetic services wherein the procedure was performed within its
13 premises, such entity shall suffer the following penalties:

14 (1) For the first conviction, a penalty of fine in the amount of Ten
15 thousand pesos (P10,000.00) but not exceeding Twenty thousand pesos
16 (P20,000.00) at the discretion of the court;

17 (2) For the second and third convictions, a penalty of fine in the
18 amount of Twenty thousand pesos (P20,000.00) but not exceeding Thirty
19 thousand pesos (P30,000.00) at the discretion of the court; and

20 (3) For the fourth and subsequent convictions, a penalty of fine in the
21 amount of Thirty thousand pesos (P30,000.00) but not exceeding Fifty
22 thousand pesos (P50,000.00) at the discretion of the court and three (3) months
23 suspension of business permit and the license to operate. The penalties
24 imposed under this Act shall be without prejudice to other penalties imposable
25 under the Revised Penal Code and other applicable laws.

1 SEC. 9. *Implementing Rules and Regulations.* – The Department of
2 Health shall issue the necessary rules and regulations for the implementation of
3 the provisions of this Act within thirty (30) days after the effectivity of this
4 Act.

5 SEC. 10. *Separability Clause.* – If, for any reason, any provision or
6 part hereof is declared invalid, the other provisions not affected thereby shall
7 remain in full force and effect.

8 SEC. 11. *Repealing Clause.* – All laws, decrees, executive orders,
9 rules and regulations or parts thereof inconsistent with the provisions of this
10 Act are hereby repealed, amended or modified accordingly.

11 SEC. 12. *Effectivity Clause.* – This Act shall take effect fifteen (15)
12 days after its publication in any newspaper of general circulation.

Approved,

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