

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress

First Regular Session

HOUSE BILL NO. 368

Introduced by Hon. MARY MITZI "MITCH" L. CAJAYON

EXPLANATORY NOTE

In the advancement of medical science and its growing popularity among women and men alike, cosmetic procedure has become an industry in fact, it is a booming industry in Asia.

In Thailand, almost one million procedures were performed in 2005; in Korea, one out of every ten adult underwent a cosmetic surgical treatment; and in Japan, there is annual revenue estimate of \$100M for personal re-engineering alone. With the increasing number of procedures to choose from, there is an equally growing concern with medical malpractice in such procedures. In Indonesia, there are 400 illicit procedures conducted every week in the capital and in China, there are around 200,000 lawsuits filed in the past ten years.

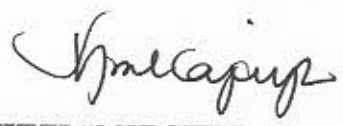
Women account for ninety one percent (91%) of patients who underwent 10.5 million surgical and non-surgical cosmetic procedures in the United States. Here in the Philippines, cosmetic surgery is eyed as a potential industry that will boost the economy through Medical Tourism. Therefore, it is only necessary that the safety of female patients who avail of such medical services be ensured.

While cosmetic surgery procedures bring hope and confidence to individuals by enhancing their appearance, they are not in any way life threatening and their accompanying risks are much greater especially when the woman is pregnant.

This bill intends to ensure that proper medical attention and consideration is provided to every patient undergoing a cosmetic surgery procedure, particularly female patients who might be aware or unaware that they are pregnant. One measure to take is to require all cosmetic surgery practitioners to conduct a mandatory pregnancy test on every female patient that is of child-bearing age not only because of the state's interest in protecting the welfare of women but more importantly, to protect the unborn children who cannot defend themselves against the possible harms that may be caused by cosmetic procedures.

Moreover, the measure provides for a mandatory disclosure of available choices with respect to cosmetic surgery procedures and the potential risks associated with them in order to ensure the safety of all patients.

In view thereof, the early passage of this measure is earnestly sought.


MARY MITZI "MITCH" L. CAJAYON

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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 the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Declaration of Policy.* – It is hereby declared the policy of the State to ensure the well being of patients, especially the protection of pregnant women and the right to life beginning from conception against the potential risks of cosmetic surgery procedures.

SECTION 2. *Objective.* - Towards this end, the State shall provide for the mandatory pregnancy testing of all women of childbearing age who will undergo cosmetic surgeries and guarantee the safety of all patients from the harmful effects that may be caused by cosmetic surgery procedures through disclosure requirement of potential risks of such procedures.

SECTION 3. *Definition of Terms.* - For the purpose of this Act, the following terminologies shall be construed as:

- (a) "Childbearing Age" shall refer to the age group during which period a female is capable of procreation;
- (b) "Cosmetic surgery" shall refer to a subspecialty of medicine and surgery that distinctly restricts itself to the enhancement of appearance through surgical and medical techniques and is primarily concerned with maintaining normal appearance, restoring it, or enhancing it beyond the average level toward some aesthetic ideal. It is a multidisciplinary approach that is directed to all areas of the head, neck and body;
- (c) "Cosmetic Surgery Practitioner" shall refer to any firm, partnership, association or corporation and any of its medical associate or cosmetic surgeon offering expertise in a broad range of cosmetic services who is a registered and licensed physician holding a valid certificate of registration and a valid professional identification card issued by the Board of Medicine of the Professional Regulation Commission;
- (d) "Human Chorionic Gonadotrophin" (HCG) shall refer to the hormone produced during pregnancy which appears in the blood and urine of pregnant women as early as ten (10) days after conception;
- (e) "Medical practitioner" shall refer to any physician registered by the Board of Medicine, a nurse registered by the Board of Nursing, or a midwife registered by the Board of Midwifery who is a holder of a valid certificate of registration and a valid professional identification card issued by the foregoing Boards and the Professional Regulation Commission who is capable of administering accurate pregnancy testing;

- (f) "Pregnancy" shall refer to the period from conception to birth and begins when the egg is fertilized by a sperm and then implanted in the lining of the uterus, develops into the placenta and embryo and later on into a fetus;
- (g) "Pregnancy test" shall refer to the procedure in which the hormone called Human Chorionic Gonadotrophin (HCG) is measured;
- (h) "Unborn child" shall refer to an unborn offspring of human beings from the moment of conception, through pregnancy, and until live birth including the human conceptus, zygote, morula, blastocyst, embryo and fetus.

SECTION 4. *Mandatory Pregnancy Testing.* – The State shall, in the interest of ensuring the well being of pregnant women and protecting the welfare of the unborn children, require all Cosmetic Surgery Practitioners to subject women of childbearing age, who shall undergo cosmetic surgery procedures that may be harmful to pregnant women and unborn children, to a mandatory pregnancy testing. The test shall be administered by the Cosmetic Surgery Practitioner or any of its accredited medical practitioner who shall certify to the veracity or authenticity of the test. *Provided*, however, that those women who have been found to be infertile or incapable to reproduce based on objective criteria as may be supported by a certified medical record shall be exempt from the provisions of this Act. Objective criteria for ruling out potential pregnancy include total hysterectomy, bilateral tubal ligation or the passage of at least one year without menses or menopause. Mandatory pregnancy testing shall be routinely performed prior to any cosmetic surgery procedure that a Cosmetic Surgery Practitioner may consider harmful to pregnant women and unborn children. Potentially harmful cosmetic surgery include those that require the administration of general anesthesia using inhalational anesthetic gases and other types of sedating drugs given intravenous or oral to induce anesthesia. The list of cosmetic surgery procedures would include but not limited to: liposuction of the abdomen, arms, thighs, submental area, combination thereof or involving whole body; tummy tuck or abdominoplasty; breast augmentation, mastopexy; butt augmentation, chemical peeling of face and body.

SECTION 5. *Conduct of Pregnancy Testing.* – The test shall be administered, primarily for the purpose of determining pregnancy, by collecting or extracting blood serum from the woman. Pregnancy testing may be *Qualitative* in order to determine if HCG hormone is present and/or *Quantitative* in order to measure how much HCG is present.

SECTION 6. *Mandatory Disclosure of Potential Risks of Cosmetic Surgery Procedures.* – It shall be the obligation of the Cosmetic Surgery Practitioner to make a reasonable disclosure of available choices with respect to a cosmetic procedure and to inform the patient of the precise and potential risks associated with a specific cosmetic surgery procedure and the possible dangers of undergoing the same when a woman is pregnant. The Cosmetic Surgery Practitioner shall explicitly advise in lay terms or in a manner that the patient can give an informed or intelligent consent to such procedure. An informed consent form shall thereafter be signed by the patient before undergoing a cosmetic surgery procedure.

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

- (a) Failure to inform the patient of the potential risks of cosmetic surgery procedures as prescribed under Section 5 of this Act;
- (b) Performing cosmetic surgery procedure to any woman of childbearing age that is harmful to pregnant women and unborn children without the required pregnancy test;
- (c) Performing cosmetic surgery procedure of any woman who has been positively found to be pregnant even when there is full disclosure or signed waiver of the right to sue over a denied and undetected pregnancy on the part of the woman.

SECTION 8. *Penalties.* – Any person who shall violate any provision of this Act shall suffer the penalty graduated hereunder:

- (a) For the first conviction, he shall suffer the penalty of reprimand, which shall be officially recorded in the appropriate books of the Professional Regulation Commission and the Philippine Medical Association;
- (b) For the second conviction, the penalty of fine in the amount of not less than Five Thousand Pesos (P5,000);
- (c) For the third conviction, the penalty of fine in the amount of not less than Ten Thousand Pesos (P10,000) but not exceeding Twenty Thousand Pesos (P20,000) and suspension of his license to practice his profession for thirty days at the discretion of the Court;
- (d) If the offense is committed by a corporation, partnership or other juridical entity, the chief executive officer, president, general manager, or such other officer in charge shall be liable for the commission of the offense punishable under this Act and the cancellation of its business permit and license to operate.

In case of conviction resulting in the death of the mother or miscarriage of the unborn child, the fine of not less than Fifty Thousand Pesos (P50,000) and a penalty of suspension of the license to practice the profession one year or longer at the discretion of the Court.

The Secretary of Health shall have the authority to recommend administrative sanctions, such as suspension or cancellation of license to practice profession on cosmetic surgery practitioner, to the Professional Regulation Commission, for the violation of this Act.

The penalties imposed under this Act shall be without prejudice to other penalties imposed under the Revised Penal Code and other applicable laws.

SECTION 9. *Implementing Rules and Regulations.* – The Department of Health shall promulgate and issue the necessary rules and regulations for the effective implementation of the provisions of this Act within thirty (30) days after the effectivity of this Act.

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

SECTION 11. *Separability Clause.* – If for any reason, a provision or part thereof is declared invalid, other provisions not affected thereby shall remain in full force and effect.

SECTION 12. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,