



HOUSE OF REPRESENTATIVES

House Bill No. 398

Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

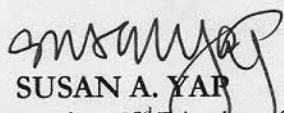
This measure aims to protect the well-being of the mother and to prevent the unborn from the harmful effects that cosmetic surgery may cause.

Under the measure, all cosmetic surgery practitioners shall subject women of childbearing age, who will undergo cosmetic surgery procedure, to mandatory pregnancy testing to be administered by a medical practitioner that is capable of undertaking accurate pregnancy testing.

The bill mandates the cosmetic surgeon to make a reasonable disclosure of available choices with respect to a cosmetic procedure and inform the patient of the precise and potential risks and the possible dangers of undergoing the surgery when a woman is pregnant.

The proposed measure also provides for a graduated penalty for the offender, natural or juridical person. Under the bill, first offense shall be penalized with a reprimand to be officially recorded in the appropriate books of the Professional Regulation Commission and the Philippine Medical Association. Penalty for the second offense shall be not less than P5,000 but not exceeding P10,000 while for third offense, a fine of not less than P10,000 but not more than P20,000 and suspension of license to practice the profession for 90 days. The fourth and subsequent offenses shall be penalized with a fine of not less than P20,000 but not more than P30,000 and suspension of license to practice the profession for one year.

In case the offense results in the death of the mother or miscarriage of the unborn, the offender shall be penalized with a fine of not less than P30,000 but not more than P50,000 and the suspension of the license to practice the profession for not less than two years but not to exceed five years at the discretion of the court.


SUSAN A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 398

Introduced by Representative Susan A. Yap

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 of the State to ensure
2 the well-being of patients, especially the protection of pregnant women and the right to life
3 of a child from conception to birth, against the potential dangers of cosmetic surgery procedures.

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

8 SECTION 3. *Definition of Terms.* - For the purpose of this Act, the following terms
9 shall be defined as follows:

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

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

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

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

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

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

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

28 SECTION 4. *Mandatory Pregnancy Testing.* - The State shall, in the interest of ensuring
29 the well-being of pregnant women and protecting the welfare of the unborn, require all cosmetic
30 surgery practitioners to subject women of childbearing age who shall undergo cosmetic surgery
31 procedures that may be harmful to pregnant women and the unborn to a mandatory pregnancy
32 testing. The test shall be administered by the cosmetic surgery practitioner or any medical

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

12 SECTION 5. *Conduct of Pregnancy Testing.* - The test shall be administered primarily for the
13 purpose of determining pregnancy by collecting or extracting blood serum from the woman. Pregnancy
14 testing may be qualitative in order to determine the presence of HCG hormone, or quantitative in order
15 to measure the extent of HCG present in the body.

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

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

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

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

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

33 SECTION 8. *Penalties.* -Any person who shall violate any provision of this Act shall suffer
34 the penalties as graduated hereunder:

35 (a) For the first conviction, he shall suffer the penalty of reprimand, which shall be officially
36 recorded in the appropriate books of the PRC and the Philippine Medical Association;

37 (b) For the second conviction, the penalty of fine in the amount of not less than Five
38 thousand pesos (P5,000.00) but not exceeding Ten thousand pesos (P 10,000.00) at the discretion of
39 the court;

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

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

47 In case of conviction resulting in the death of the mother or miscarriage of the unborn, a
48 fine of not less than Thirty thousand pesos (P30,000.00) but not exceeding Fifty thousand pesos
49 (P50,000.00) and a penalty of suspension of the license to practice the profession for not less than
50 two (2) years but not exceeding five (5) years shall be imposed at the discretion of the court. If the
51 cosmetic surgery practitioner is affiliated, associated or connected to any firm, partnership,
52 corporation or other juridical entity offering expertise in a broad range of cosmetic services

1 wherein the procedure was performed within its premises, such entity shall suffer the following
2 penalties:

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

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

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

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

17 SECTION 10. *Separability Clause.* - If, for any reason, any provision or part hereof is
18 declared invalid, the other provisions not affected thereby shall remain in full force and effect.

19 SECTION 11. *Repealing Clause.* - All laws, decrees, executive orders, rules and
20 regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed,
21 amended or modified accordingly.

22 SECTION 12. *Effectivity Clause.* - This Act shall take effect fifteen (15)days after its
23 publication in any newspaper of general circulation.

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Approved,