

8 MAY 26 2007

SENATE
S.B. No. 2324

FILED

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to ensure that proper medical attention and consideration is provided to every patient undergoing cosmetic procedure, particularly female patients who might be aware or unaware that they are pregnant.

According to the Department of Health, the Philippines has earned an estimated \$200 million from medical tourists in the year 2006. This is a manifestation that our medical tourism holds potentials and is fast keeping up with our western counterparts.

As the said industry is still developing, our safety standards should always be kept on a high level to ensure its growth in the global market. It is in this sense that this proposed measure is presented to guarantee the safety of the patrons of our medical services, particularly women, foreign and local, alike.

The bill ensures the conduct of mandatory pregnancy testing and further, the mandatory disclosure of potential risks of cosmetic procedures. The penalties for the violation of the same are also in place in order to put teeth into the measure.

Moreover, this proposed legislation is in line with the State policy, as enshrined in our 1987 Constitution, that the State shall equally protect the life of the mother and the life of the unborn from conception. (*Article II, Section 12*)

In view of the foregoing, the passage of this bill is earnestly sought.

LOREN LEGARDA
Senator

Introduced by Senator Loren Legarda

AN ACT
PROVIDING FOR THE MANDATORY PREGNANCY TESTING OF ALL WOMEN
OF CHILDBEARING AGE WHO WILL UNDERGO COSMETIC PROCEDURES
THAT ARE HARMFUL TO PREGNANT WOMEN AND UNBORN CHILDREN,
AND DISCLOSURE OF THE POTENTIAL RISKS OF SUCH PROCEDURES AND
FOR OTHER PURPOSES

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

1 SECTION 1. *Declaration of Policy.* - It is the declared policy of the State to ensure
2 the well being of patients, especially the protection of pregnant women and the right to
3 life beginning from conception against the potential risks of cosmetic procedures.
4 Towards this end, the State shall provide for the mandatory pregnancy testing of all
5 women of childbearing age who will undergo cosmetic procedures and guarantee the
6 safety of all patients from the harmful effects that may be caused by cosmetic
7 procedures through disclosure requirement of potential risks of such procedures.

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9 SECTION 2. *Definition of Terms.* - For the purpose of this Act, the following
10 terminologies shall be construed as:

- 11
12 (a) "Childbearing Age" shall refer to the age group during which period a
13 female is capable of procreation;
14 (b) "Cosmetic procedure" shall refer to a subspecialty of medicine and
15 surgery that distinctly restricts itself to the enhancement of appearance
16 through surgical and medical techniques and is primarily concerned
17 with maintaining normal appearance, restoring it, or enhancing it
18 beyond the average level toward some aesthetic ideal. It is a
19 multidisciplinary approach that is directed to all areas of the head,
20 neck and body;
21 (c) "Cosmetic Provider" shall refer to any firm or corporation and any of
22 its medical associate or cosmetic surgeon offering expertise in a broad
23 range of cosmetic services duly certified by the Professional
24 Regulatory Commission who is in active practice of cosmetic surgery;
25 (d) "Human Chorionic Gonadrophin" (HCG) shall refer to the hormone
26 produced during pregnancy which appears in the blood and urine of
27 pregnant women as early as ten (10) days after conception;
28 (e) "Medical practitioner" shall refer to any physician, nurse or
29 paramedical or other supporting personnel duly certified by the

30 Professional Regulatory Commission who is capable of administering
31 accurate pregnancy testing;

32 (f) "Pregnancy" shall refer to the period from conception to birth and
33 begins when the egg is fertilized by a sperm and then implanted in the
34 lining of the uterus, develops into the placenta and embryo and later
35 on into a fetus;

36 (g) "Pregnancy test" shall refer to the procedure in which the hormone
37 called Human Chorionic Gonadrophin (HCG) is measured;

38 (h) "Unborn child" shall refer to an unborn offspring of human beings
39 from the moment of conception, through pregnancy, and until live
40 birth including the human conceptus, zygote, morula, blastocyst,
41 embryo and fetus.
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43 SECTION 3. *Mandatory Pregnancy Testing.* - The State shall, in the interest of
44 ensuring the well being of pregnant women and protecting the welfare of the unborn
45 children, require all Cosmetic Providers to subject women of childbearing age, who
46 shall undergo cosmetic procedures that may be harmful to pregnant women and
47 unborn children, to a mandatory pregnancy testing. The test shall be administered by
48 the Cosmetic Provider or any of its accredited medical practitioner who shall certify to
49 the veracity or authenticity of the test. Provided, however, that those women who have
50 been found to be infertile or incapable to reproduce based on objective criteria as may
51 be supported by a certified medical record shall be exempt from the provisions of this
52 Act. Objective criteria for ruling out potential pregnancy include total hysterectomy,
53 bilateral tubal ligation or the passage of at least one year without menses or menopause.
54 Mandatory pregnancy testing shall be routinely performed prior to any cosmetic
55 procedure that the Cosmetic Provider may consider harmful to pregnant women and
56 unborn children. Harmful cosmetic procedures include those that require the
57 administration of general anaesthesia and other types of anaesthesia that the Cosmetic
58 Provider may deem detrimental to the well being of the pregnant women and unborn
59 children.
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61 SECTION 4. *Conduct of Pregnancy Testing.* - The test shall be administered,
62 primarily for the purpose of determining pregnancy, either by collecting a urine sample
63 or extracting blood serum from the woman. Pregnancy testing may be *Qualitative* in
64 order to determine if HCG hormone is present and/or *Quantitative* in order to measure
65 how much HCG is present.
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67 SECTION 5. *Mandatory Disclosure of Potential Risks of Cosmetic Procedures.* - It shall
68 be the obligation of the Cosmetic Provider to make a reasonable disclosure of available
69 choices with respect to a cosmetic procedure and to inform the patient of the precise
70 and potential risks associated with specific cosmetic procedure and the possible dangers
71 of undergoing the same when a woman is pregnant. The Cosmetic Provider shall
72 explicitly give advise in lay terms or in a manner that the patient can give an informed
73 or intelligent consent to such procedure.
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75 SECTION 6. *Prohibited Acts.* - The following acts shall constitute an offense
76 punishable under this Act:
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78 (a) Failure to inform the patient of the potential risks of cosmetic
79 procedures as prescribed under Section 5 of this Act;

- 80 (b) Performing cosmetic procedure to any woman of childbearing age that
81 is harmful to pregnant women and unborn children without the
82 required pregnancy test;
- 83 (c) Performing cosmetic procedure of any woman who has been positively
84 found to be pregnant even when there is full disclosure or signed
85 waiver of the right to sue over a denied and undetected pregnancy on
86 the part of the woman.

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88 SECTION 7. *Penalties.* - Any Cosmetic Provider who violates any provision of
89 this Act shall be punished by *prision mayor* and the cancellation of the license to practice
90 cosmetic procedure and a fine ranging from Five Hundred Thousand Pesos (Php
91 500,000.00) to One Million Pesos (Php 1,000,000.00) in the discretion of the Court taking
92 into consideration all attending circumstances.

93
94 If the offense is committed by a corporation, partnership, or other juridical entity
95 duly organized in accordance with law, the chief executive officer, president, general
96 manager, managing partner or such other officer-in-charge shall be liable for the
97 commission of the offense penalized under this Act and the cancellation of its business
98 permit and license to operate.

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101 SECTION 8. *Implementing Rules and Regulations.* - The Department of Health shall
102 promulgate and issue the necessary rules and regulations for the effective
103 implementation of the provisions of this Act within thirty (30) days after the effectivity
104 of this Act.

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106 SECTION 9. *Repealing Clause.* - All laws, decrees, executive orders, rules and
107 regulations or parts thereof inconsistent with the provisions of this Act are hereby
108 repealed or modified accordingly.

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110 SECTION 10. *Separability Clause.* - If for any reason, a provision or part thereof is
111 declared invalid, other provisions not affected thereby shall remain in full force and
112 effect.

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114 SECTION 11. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after
115 its publication in the Official Gazette or in two (2) newspapers of general circulation.

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117 Approved,