

(H. B. 1440)
(Conference)
(Reconsidered)

(No. 73)

(Approved February 8, 2003)

AN ACT

To set forth regulations on the practice of body piercing; to authorize the Registry of Body Piercers in the Puerto Rico Department of Health; to authorize the Secretary of the Department of Health to promulgate regulations; and to establish penalties.

STATEMENT OF MOTIVES

Body Piercing or body perforations, is an ancient custom that has proliferated in recent years. It implies the creation of a perforation in the human body to insert jewelry or another decoration. Body Piercing, a fashion that increasingly gathers more followers, most of them youths, can be extremely hazardous to one's health. These body perforations can generate a great variety of lesions and infections, some of which are of a serious nature. Medical literature has documented many cases of tears and inflammations, lesions and amputations caused by an infection. When this practice is not performed under adequate hygienic conditions, it can cause infections as serious as hepatitis B and C, and even tetanus.

It is a serious concern that a citizen may contract diseases such as: Hepatitis B, Hepatitis C or the Acquired Immunity Deficiency Syndrome (AIDS) during a procedure of body piercing, because these viral infections can be transmitted from one client to another if the necessary measures of

sanitation and sterilization of the equipment used for these ends are not taken. In spite of these risks, there are no regulations concerning sanitation norms to be followed by businesses where body piercing is practiced. Presently, there is only legislation to regulate the practice of tattoos which is analogous to body piercing. Normally the dermatological artist is also dedicated to the practice of body piercing, due to which it is indispensable to ensure the professionalism of the person who performs body piercing, as well as the cleanliness and hygiene of the area where it is performed and the instruments used.

Although until now it has not been proven that such practice has infected people with any of these viruses, the possibility of contagion may be present, because its long incubation limits the evidence to sustain transmission through the instruments used to perforate the skin. The Puerto Rican Legislature understands that, in compliance with the state's obligation to maintain the health and welfare of the people, it is necessary to regulate the practice of body piercing, including the person who performs same, the equipment to be used, and the location where it is performed.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- This Act will be known as the “Act to Regulate the Practice of Body Piercing in Puerto Rico.”

Section 2.- Definitions

The following words shall have the following meaning:

(a) “Body Piercer” means the person who performs body piercing, making perforations in human skin, except when such person is a certified surgeon.

(b) “Body Piercing” means the creation of an opening or body perforation on a person with the purpose of inserting jewelry or any other

decoration. Body piercing shall not include perforation of an ear with a disposable needle which is inserted by means of the use of a mechanical artifact to force the needle through the ear.

(c) “Department” shall mean the Puerto Rico Department of Health

(d) “Owner or manager of a body piercing studio” shall mean the person who operates or maintains an establishment dedicated to body piercing.

(e) “Contagious diseases” shall mean any type of disease caused by an infectious agent that can be transmitted directly or indirectly from one person to another.

(f) “Body piercing studio” means any establishment that has a license issued by the Department of Health to perform body piercing.

(g) “Foreign person” means a person born outside of Puerto Rico or the United States.

(h) “Body Piercers Registry” shall mean the agency of the Department of Health in charge of the Body Piercers Registry and of the body piercing studios authorized under the norms set forth in this Act.

(i) “Secretary” means the Secretary of the Department of Health.

(j) “Asepsis techniques” shall mean those techniques used to prevent infection by inhibiting the development and growth of infectious agents, destroying the microbes that cause them.

Section 3.- Body Pierces License and Registration

No person may perform body piercing, or call himself a Body Piercers without having a license pursuant to with the provisions of this Act, and without being registered in the Body Piercers Registry that shall be established by the Secretary of the Department of Health for this purpose.

Section 4.- Registration

The application for registration in the Registry shall be made as provided by the Department, and the following documents shall be filed:

- (a) certified copy of the person's birth certificate;
- (b) if the person were a foreigner, he will file his passport and a certificate showing his status as an immigrant authorized to work in the Commonwealth of Puerto Rico.
- (c) identification of the applicant with a 2" X 3" color photograph, taken from the front.
- (d) social security number, or passport number if he is a foreigner;
- (e) certificate of Hepatitis vaccination;
- (f) annual health certificate issued by a government agency or an entity authorized by the Department;
- (g) documentary evidence of a physical exam performed by a physician duly authorized to practice medicine in Puerto Rico that includes negative certification of contagious diseases; and
- (h) any other pertinent document requested by the Department by means of regulation.

In cases of renewal, the applicant shall file evidence of having participated and satisfactorily completed, within a term of two (2) years prior to the date of the renewal application, a course on control of contagious diseases offered by a provider of continuing education registered with the Department.

Section 5.- Examination

People requesting a "Body Piercer" license shall submit to an examination, administered by the Department, to determine if they have the

necessary knowledge of asepsis techniques that allows them to perform body piercing without placing the client's health at risk.

(a) Each person applying for a license and for its renewal shall be required to have passed a course in each of the following areas:

1. Care, storage and use of a body piercer's equipment and instruments. This shall include sterilization, storage of sterilized equipment, reesterilization, and the disposal of used needles and other equipment.
2. Body piercing practices and procedures.
3. Asepsis techniques and infection control.
4. Center for Disease Control guidelines on universal precautions to prevent disease contagion or infections during, or related to, body piercing procedures.
5. Any other course required by the Department by means of regulation.

(b) The examination to be administered by the Department shall include the areas or matters enumerated in paragraph (a) of this Section, with emphasis on the area of prevention and control of infection, and asepsis measures.

Section 6.- License Term and Renewal

If the Secretary determines that the applicant complies with the requirements, a license, in the form of a certificate, shall be issued authorizing him to perform body piercing, which shall be placed on a visible wall of the body piercing studio. The license shall be valid for three (3) years, at the end of which term, it must be renewed by filling in the renewal request form provided by the Department, accompanied by a payment of seventy-five (75) dollars.

The license renewal application must be filed ninety (90) days before the same expires. Any application filed within the term of ninety (90) days shall require an additional payment of fifty (50) dollars. If the application is filed after the license has expired, the Department shall consider it an original application.

Section 7.- Sanitary Rules

The licensed Body Piercer shall comply with the following sanitary rules:

- (a) a clean (medical type) or surgical garment, or disposable coat shall be used during the perforation procedure;
- (b) hands and nails shall be washed and scrubbed with antiseptic, and soaked in hot water before beginning and after ending work with each client.
- (c) disposable gloves, sterile gauze and sterilized instruments shall be used, as well as, mouth and nose masks and eye protectors;
- (d) the body area to be perforated shall be cleaned with an antiseptic soap. Perforations shall not be made in areas of the body where there are signs of drug use, lesions, or dermatological diseases;
- (e) If the area to be perforated must be shaved, disposable blades shall be used for each service and the skin shall be cleaned again with isopropyl alcohol at seventy (70) percent.
- (f) all jewelry or objects used in the perforation shall be cleaned in a germicide solution;
- (g) the needles and sharp or cutting objects used shall be immediately discarded in perforation-proof labeled containers, disposing of them as high risk biological material;

- (h) the equipment and all the instruments shall be placed in a germicide solution or in an ultrasonic cleaner;
- (i) the gloves shall be discarded after each use, in bags identified as biomedical waste, which shall be handled by authorized personnel.

Section 8.- Information and Declaration

The Body Piercer, as well as the owner or manager of the body piercing studio, shall inform the client, verbally and in writing, how to care for the perforated area. The client shall sign a statement of having read and understood the instructions, a copy of which shall be kept by the body piercing studio for a term of two (2) years.

The written statement shall include the following information:

- (a) the body piercer's name, his license number, the establishment's address and telephone number;
- (b) the instructions to be followed regarding the care of the perforated area after the perforation has been performed; and
- (c) a warning to the client that a physician must be consulted if signs of infection develop, or if there is an allergic reaction;

Section 9.- Prohibition

No person shall perform body piercing upon a minor under sixteen (16) years of age, or to a mentally disabled person. The verbal or written consent from the parent with custody or legal guardian of the minor or mentally disabled person shall not exempt from criminal liability for violations against of this Section.

The performance of body piercing upon minors under eighteen (18) years of age is prohibited without the written authorization of a parent custodian, or legal guardian, by means of a sworn statement, at the time of

performing the body piercing. The body piercer shall be responsible for requiring the necessary documents to ascertain the identity of the parent, custodian, or legal guardian of the minor and the respective consent of same by means of a sworn statement. Violations against this rule trigger the indefinite revocation of the license pursuant to the provisions set forth in Section 17 of this Act.

Any person who falsely declares to be the parent, custodian, or legal guardian of the minor, for a minor under eighteen (18) years of age to undergo a body piercing, incurs in a misdemeanor, and may be sanctioned, pursuant to the provisions set forth in Section 21 of this Act.

Body piercing may be performed on persons eighteen (18) years of age and older without the written authorization of the minor's parent with legal custody or the legal guardian.

Section 10.- Body Piercing Studio Licenses

No natural person acting independently or jointly with another, nor business, corporation or association shall operate a body piercing studio, be it in a residential, or commercial, rural, or urban area, if same does not have a license issued by the Department of Health so authorizing, and any other pertinent operation or zoning permit required by Law.

Section 11.- Application and License Fees

- (a) The license application for the operation of a body piercing studio shall be filed on the form provided by the Department, according to the provisions of this Act;
- (b) The application shall include the location and address of the establishment where the studio shall operate, and the owner or administrator's address with the following information:

- (1) official proof that the owner or administrator is of legal age;
- (2) a certificate of the studio owner and the administrator's good conduct;
- (3) a list with the name of all the owners or persons who have fifty (50) percent participation or more in the corporation that shall operate the studio.
- (4) a fee of one hundred fifty (150) dollars;
- (5) a list of all the studio's equipment and instruments; and
- (6) a description of the procedure and nature of the services to be rendered, and of the health and safety measures that shall be taken for the benefit of clients and employees.
- (7) any other document required by the Department by means of regulation.

Section 12.- Studio License Term and Renewal

The body piercing studio license shall be valid for a term of three (3) years and must be renewed before the end of the term by means of the payment of a seventy-five (75) dollar fee.

Section 13.- Change of Owner or of Locale

The studio owner or administrator shall notify the Department in writing of any change of owner or locale of the body piercing studio. Change of the studio's owner will imply the cancellation of the license, which must then be returned to the Department.

Section 14.- Inspections

Body piercing studios shall be inspected before a license is granted, while same is in effect, and upon its renewal. Authorized representatives of

the Department may enter the studio, at reasonable hours, to inspect and to investigate compliance with the requirements set forth in this Act, and in the regulations to be issued by the Department of Health.

To hinder the entrance of authorized representatives into the studio shall constitute sufficient reason to deny or revoke the license. If the Department representatives understand that the studio does not comply with the requirements set forth by this Act and by the Department, the Secretary may deny or revoke the license. A new license application may not be filed before six (6) months from the date of denial or revocation.

Section 15.- Body Piercing Studio Management

The owner or manager of a body piercing studio shall comply with the sanitary rules established by the Department, as well as with the following norms:

(a) Equipment

If the studio's managing owner were not the licensed body piercer, same shall provide to the latter the sterilized individual equipment to be used with each client and shall ensure that the body piercer complies with the duty of keeping the equipment sterile.

The equipment used in body piercing shall be cleaned and sterilized with an ultrasonic cleaner. The equipment shall be immersed in this solution for ten (10) minutes. The solution shall be changed daily and the tank shall be cleaned with isopropyl alcohol at seventy (70) percent at each solution change.

(a) Sterilization procedure

The body piercing studio must have the necessary sterilization equipment to contain all the instruments used. The sterilization procedure shall be performed scientifically, including the cleaning and removal of tissue or blood before sterilizing the equipment.

(b) Body Piercing Norms and Procedures

Prepare and maintain a manual of rules and procedures containing instructions and guidelines on sanitary norms, information and statements, equipment and sterilization procedures, and other items required by this Act or by the Department regulations, subject to review by the Department's inspectors.

Section 16.- License Denial

The Secretary may deny the granting of a license, after notifying the interested party and providing an opportunity to be heard, when such party:

- (a) Has illegally operated a body piercing studio, or has illegally practiced body piercing in Puerto Rico;
- (b) Has been convicted of a crime or of a misdemeanor implying moral turpitude, or crimes involving battery or sexual assault; setting forth hereby that the Secretary may deny a license under this paragraph when it can be shown that the crime committed is substantially related to the qualifications, tasks and duties of the practice regulated by this Act.
- (c) Has incurred manifest incompetence, damaging third parties in the practice of body piercing;

- (d) Has been declared mentally incompetent by a court with jurisdiction, or if incapacity is established through medical expertise;
- (e) Is a drug addict or an alcoholic; providing that the license may be granted as soon as the person proves that same has become competent through participation of same in a rehabilitation program, accredited and certified by the Commonwealth of Puerto Rico, or one of its instrumentalities, agencies, dependencies or subdivisions, if in compliance with the other requirements established in this Act.

Section 17.- License Suspension and Revocation

The Secretary may temporarily or permanently deny, revoke or suspend a license issued according to the provisions of this Act, after notifying the interested party and providing an opportunity to be heard, when such party:

- (a) Has been convicted of a crime or of a misdemeanor implying moral turpitude;
- (b) Has attempted to obtain a body piercing license or to operate a body piercing studio by means of fraud or deceit;
- (c) Has incurred gross negligence in the performance of his professional duties to the prejudice of a third party;
- (d) Has been declared mentally incompetent by a court with jurisdiction or if incapacity is established through medical expertise; setting forth hereby that the license may be granted as soon as the person is declared to be competent again by means of participation in a rehabilitation program accredited and certified by the Commonwealth of Puerto Rico, or one of its instrumentalities, agencies, dependencies or subdivisions, if

in compliance with the other requirements established in this Act;

- (e) is a drug addict or an alcoholic; setting forth hereby that the license may be granted as soon as the person proves to have become competent through participation in a rehabilitation program accredited and certified by the Commonwealth of Puerto Rico, or one of its instrumentalities, agencies, dependencies or subdivisions, if in compliance with the other requirements set forth in this Act.

Section 18.- Client Registry

The owner or manager of a body piercing studio shall keep a written list of each procedure performed upon a client where the following information shall be included:

- (a) Client's full name, address, telephone number, age and date of birth;
- (b) Location on the body where the perforation was made;
- (c) Jewelry or objects used;
- (d) Equipment used;
- (e) Date when body piercing was performed;
- (f) Name of the body piercer who performed the perforation; and
- (g) Client's signature.

Said information shall be entered in the Client Registry that shall be kept in duly bound books with successively numbered pages of no more than five hundred (500) pages, which shall be available for inspection at any time by the Secretary of the Department or his authorized representatives.

The Client Registry shall be kept while the studio is in operation. If the studio ceases to exist, the owner or manager of same must deliver the complete registry to the Department.

Section 19.- Biomedical Waste Elimination

The elimination of biomedical waste shall be made according to the norms and regulations established by the Environmental Quality Board for such type of waste.

Section 20.- Regulations

The Secretary of the Department of Health shall issue the regulations necessary to cover all that has not been expressly set forth in this Act.

Section 21.- Penalties

Every person who breaches this Act, shall commit a misdemeanor, and if convicted, shall be sanctioned with a fine of no more than five thousand (5,000) dollars or a jail term not to exceed six (6) months, or both penalties at the discretion of the Court and with the suspension or revocation of the pertinent license.

Section 22.- Effectiveness

This Act shall take effect immediately after its approval for the sole purpose of allowing the Secretary of the Department Health to establish the Body Piercers Registry and to issue the necessary regulations to implement the provisions of this Act. The remaining provisions shall take effect ninety (90) days after its approval.

Section 23.- Severability

If any paragraph, Section, subsection, title or part of this Act were declared unconstitutional by a Court with jurisdiction, such ruling shall not invalidate or affect the remaining provisions of this Act, but the effect shall

be limited to the paragraph, Section, subsection, title or part which has been declared unconstitutional.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 73 (H.B. 1440) (Conference) (Reconsidered) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to set forth regulations on the practice of body piercing; to authorize the Registry of Body Piercers in the Puerto Rico Department of Health; to authorize the Secretary of the Department of Health to promulgate regulations; and to establish penalties,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 9 of March of 2004.

Elba Rosa Rodríguez-Fuentes
Director