AN ACT

1 Regulating tattoo, body-piercing and corrective cosmetic
2 artists; limiting tongue splitting; providing for powers and
3 duties of the Department of Health; and imposing penalties.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.
This act shall be known and may be cited as the Tattoo, Body-Piercing and Corrective Cosmetic Artists Act.

Section 2. Legislative intent.
It is the intent of the General Assembly to direct the department to establish health standards for the practice of tattooing, body piercing and corrective cosmetics within this Commonwealth. The health standards will be achieved through the imposition of regulations and the registration of all tattoo artists, body-piercing artists and corrective cosmetic artists with the department.

Section 3. Definitions.
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Body piercing." The process of breaching the skin or mucous membrane for the purpose of insertion of any object, including, but not limited to, jewelry for cosmetic purposes. The term does not include ear piercing or nail piercing.

"Body-piercing artist." A individual who performs body piercing or operates, conducts or manages a body-piercing establishment.

"Corrective cosmetic artist." A individual who performs corrective cosmetics.

"Corrective cosmetics." The application of a tattoo on a live human being for medical situations that otherwise could not be corrected or improved, including, but not limited to, burn
scars, acne scars, age spots and skin discoloration due to loss of pigmentation.

"Department." The Department of Health of the Commonwealth.

"Facial tattoo." A tattoo applied above the neck, including, but not limited to, eyelids, eyebrows or lips.

"Infectious disease." A disease of humans or animals resulting from a transmissible infection, whether or not patent, apparent, inapparent, latent, clinical or subclinical.

"Registry." The Tattoo, Body-piercing and Corrective Cosmetic Artists Central Registry established under section 4.

"Sanitization." The reduction of the population of microorganisms to safe levels as determined by public health officials.

"Sterilization." The process of destruction of the forms of life by physical or chemical means.

"Tattoo." The indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin or by the production of scars upon the body of a live human being.

"Tattoo artist." A individual who performs tattooing or operates, conducts or manages a tattoo establishment.

"Tattooing." The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

"Temporary establishment." An establishment that:

(1) performs tattooing, body piercing or both;

(2) is operated by an individual registered under this act; and

(3) operates outside of a registered facility at a fixed
location for a period of time of not more than seven
consecutive days in conjunction with a single event or
celebration.
"Tongue splitting." The cutting of a human tongue into two
or more parts.

Section 4. Registry.

The department shall, by regulation, establish the Tattoo,
Body-Piercing and Corrective Cosmetic Artists Central Registry.
A individual who performs tattooing, body-piercing or corrective
cosmetic services within this Commonwealth must meet the
requirements of this act and register with the department on
forms provided by the department.

Section 5. Powers and duties of department.

(a) General rule.--The department may adopt regulations as
are reasonably necessary to carry out the provisions of this
act. A regulation must be adopted in conformity with the
provisions of the act of June 25, 1982 (P.L.633, No.181), known
as the Regulatory Review Act, and must include, but not be
limited to:

   (1) Tattoo, body-piercing and corrective cosmetic
   establishment registration and facility registration
   requirements, including, but not limited to:

      (i) Physical location.

      (ii) Specifications of walls, ceilings, floors,
           partitions, fixtures, equipment and other appurtenances.

      (iii) Lighting.

      (iv) Ventilation.

      (v) Water supply.

      (vi) Liquid waste disposal.

      (vii) Refuse storage and disposal.
(viii) Toilets and lavatories.
(ix) Sinks.
(x) Insect and rodent control.
(2) Temporary establishment registration requirements.
(3) Tattoo artist and body-piercing artist registration requirements.
(4) Apprentice tattoo artist and body-piercing artist registration requirements.
(5) Development and maintenance of and registration in the registry.
(6) Tattoo artist and body-piercing artist hygiene.
(7) Health, sanitization, sterilization and safety standards for tattoo, body-piercing or corrective cosmetic establishments and temporary establishments.
(8) Tattoo and body-piercing establishment and temporary establishment recordkeeping.
(9) Qualifications for the registration of corrective cosmetic artists.
(10) Tongue splitting.
(b) Examination.--The department shall require the successful completion of a written examination regarding health, sanitization, sterilization and safety standards prior to issuing a registration to a tattoo artist, body-piercing artist or corrective cosmetic artist.
(c) Registration.--The department shall register:
   (1) An applicant who successfully passes the examination and meets the requirements for registration in accordance with the regulations promulgated under this act.
   (2) A tattoo or body-piercing establishment or temporary establishment that has been inspected and meets facility
requirements in accordance with the regulations where
tattooing, body-piercing or corrective cosmetic services will
be performed.

(d) Inspection.--The department shall inspect an
establishment at which tattooing, body piercing or corrective
cosmetics are performed prior to issuing a facility
registration. The department may conduct inspections of
registered facilities and temporary establishments. The
inspection shall insure that required sterilization, sanitation
and safety standards are maintained.

(e) Fees.--Any fee required under this act shall be fixed by
the department by regulation and shall be subject to the
Regulatory Review Act.

(f) Limitation.--This act may not be construed to permit the
department to regulate artistic aspects of tattooing, body
piercing or corrective cosmetics that are unrelated to health,
sanitization, sterilization or safety standards.

(g) Departmental actions.--An action of the department in
accordance with this act that results in a refusal to issue a
registration for a reason other than failure to pass the written
examination required under subsection (b) or action that
suspends or revokes a registration shall be subject to the right
of notice, hearing and adjudication and the right of appeal
therefrom in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating
to practice and procedure of Commonwealth agencies).

Section 6. Duties and responsibilities of artists.

(a) Health of tattoo artists and body-piercing artists.--The
department shall establish, by regulation, minimum health
standards for the registrants and individuals working in an area
of a tattoo or body-piercing establishment that may be necessary
to prevent the contamination of tattoo or body-piercing
equipment, supplies or work surfaces with pathogenic organisms.

(b) Infectious disease.--A notarized statement from a
licensed physician shall be provided to the department, prior to
the issuance of a registration under this act, confirming that
the artist was examined by the physician, a test of the artist's
blood was made and the results of the test indicate that:
(1) the artist is free from all contagious and
infectious diseases, including hepatitis B;
(2) the artist has either completed or was offered and
declined a vaccination series;
(3) antibody testing reveals that the artist is immune
to certain diseases; or
(4) a vaccine is contradicted for medical reasons.

(c) Notifications.--Verbal and written instructions for the
care of the tattooed or pierced site on the body shall be
provided to a customer by the tattoo artist or body-piercing
artist upon the completion of the procedure. The written
instructions shall advise the customer to consult a physician at
the first sign of infection and contain the name, address and
telephone number of the tattoo or body-piercing establishment.

Section 7. Minors.

(a) Prohibitions.--A individual may not perform a tattooing
or body-piercing service on another individual under 18 years of
age without the written consent of a parent or legal guardian of
the other individual.

(b) Regulations.--The department shall promulgate
regulations establishing standards for verification of age and
documentation of consent.

(c) Revocation.--A individual who performs a tattooing or
body-piercing service on a body part of an individual under 18
years of age without proper consent as established under
subsection (a) shall have the registration under this act
revoked for two years.
(d) Registration.--A individual who violates subsection (a)
may not be registered for two years from the date of violation
or revocation, whichever is later.
Section 8. Municipalities.
(a) Authority of municipality.--The following shall apply:
(1) This act shall not supersede the power of a
municipality to:
   (i) inspect a tattoo or body-piercing establishment
   or temporary establishment;
   (ii) regulate the manner in which tattooing or body
   piercing may be performed;
   (iii) levy a lawful tax or fee; and
   (iv) require the purchase of a business privilege
   license unrelated to competence in the practice of
tattooing or body piercing.
(2) A municipality may not require a tattoo artist or
body-piercing artist registered under this act to obtain a
municipal license to engage in a tattoo, temporary tattoo or
body-piercing service in the municipality.
(3) This act shall not preclude a municipality from
denying or revoking a local permit for failure to comply with
a local ordinance that is consistent with this act or
regulations of the department promulgated under this act.
(b) Failure to comply with local ordinance.--A registrant
under this act who fails to comply with a municipal ordinance
concerning the inspection of tattoo or body-piercing
establishments or temporary establishments, or the manner in
which the municipality requires tattoo and body-piercing
services to be performed, shall be subject to disciplinary
proceedings under this act.

Section 9. Unlawful acts.

(a) Unregistered practice.--Unless a individual has been
duly registered and authorized to engage in practice under this
act, the individual may not:

(1) practice tattooing, body piercing or corrective
cosmetics;

(2) hold himself out as a practitioner of or entitled or
authorized to practice tattooing, body piercing or corrective
cosmetics; or

(3) assume the title of "tattooist," "tattoo artist,"
"body piercer," "body-piercing artist," "corrective cosmetics
artist" or other letters or titles in connection with the
individual's name that represents himself as being engaged or
authorized in the practice of tattooing, body piercing or
corrective cosmetics.

(b) Unregistered facilities.--A individual may not operate a
tattoo, body-piercing or corrective cosmetic establishment or
temporary establishment that is not registered with the
department.

(c) Injections.--A tattoo artist, body-piercing artist or
corrective cosmetic artist may not administer an anesthetic
injection or other medication or prescription drug.

(d) Facial tattoos.--Other than a corrective cosmetic artist
registered under this act, or a physician or surgeon licensed in
this Commonwealth, a individual may not perform a facial tattoo
service on another individual.
Section 10. Tongue splitting limitation.
(a) General rule.--A individual may not perform tongue splitting on another individual unless the tongue splitting is performed by a physician or dentist licensed in this Commonwealth.
(b) Grading.--A individual who violates the provisions of this section commits a misdemeanor of the first degree for a first offense and a felony of the third degree for a second or subsequent offense.

Section 11. Disciplinary matters.
(a) General.--The department may suspend or revoke a registration issued under this act for any of the following reasons:

(1) Failing to demonstrate the qualifications or standards for a registration contained in this act or regulations of the department.
(2) Making misleading, deceptive, untrue or fraudulent representations in obtaining a registration.
(3) Being unable to practice with reasonable skill and safety to the public by reason of illness, addiction to drugs or alcohol, having been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating to a controlled substance in a court of law of the United States or another state, territory, possession or country, or of mental incompetency. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction unless the department has evidence to the contrary.
(4) Violating a lawful regulation promulgated by the
department or violating a lawful order of the department
previously entered by the department in a disciplinary
proceeding.

(5) Knowingly maintaining a professional connection or
association with a individual who is in violation of this act
or regulation of the department or knowingly aiding,
assisting, procuring or advising an unregistered individual
to practice a profession contrary to this act or regulations
of the department.

(6) Acting in a manner that presents an immediate and
clear danger to public health or safety.

(7) Making a false or deceptive biennial registration
with the department.

(b) Authorized actions.--In addition to taking disciplinary
or corrective action against a registrant under this act or
under other statutory authority, the department may:

(1) Deny the application for a registration or another
privilege granted by the department.

(2) Revoke, suspend, limit or otherwise restrict a
registration.

(3) Stay enforcement of a suspension and place a
registrant on probation with the right to vacate the
probationary order for noncompliance.

(c) Failure to comply with conditions.--Failure of a
registrant to comply with the conditions required by the
department shall be grounds for reconsideration of the matter
and institution of formal charges against the registrant.

(d) Reinstatement of registration.--Unless ordered to do so
by the Commonwealth Court or on appeal therefrom, the department
may not reinstate the registration of an individual that has been revoked for two years from the date of violation or revocation, whichever is later. An individual whose registration has been revoked may apply for reinstatement, after a period of at least two years, but must meet the registration requirements of this act, including the examination requirement, if the individual desires to practice the art of tattooing, body piercing or corrective cosmetics under this act after the revocation.

(e) Surrender of suspended or revoked registration.—The department shall require an individual whose registration has been suspended or revoked to return the registration in the manner as the department directs.

Section 12. Penalties.

An individual who violates a provision of this act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than $1,000 or to imprisonment for not more than three months, or both.

Section 13. Injunctive relief.

An individual may not practice or attempt to offer to practice tattooing, body piercing or corrective cosmetics without having at the time of so doing a valid, unexpired, unrevoked and unsuspended registration issued under this act. The unlawful practice of tattooing, body piercing or corrective cosmetics may be enjoined by a court on petition of the department. It shall be unnecessary to show that an individual is individually injured by the actions complained of in the proceeding. If it is found that the respondent has engaged in the unlawful practice of tattooing or body piercing, a court of competent jurisdiction shall enjoin the respondent from so practicing unless and until the respondent registers with the department. The procedure in
such cases shall be the same as in any other injunction suit.

The remedy by injunction authorized by this section shall be in
addition to any other civil or criminal prosecution and
punishment authorized by law.

Section 14. Exemptions.

(a) General rule.--This act shall not prevent:

(1) a physician or surgeon licensed in this Commonwealth
from performing body-piercing or tattooing services for
medical reasons; or

(2) a funeral director licensed in this Commonwealth
from performing body-piercing or tattooing services as
required by the profession.

(b) Physician-based corrective cosmetics establishments.--
This act shall not require the registration of corrective
cosmetics establishments physically located in a licensed
physician's office, hospital or clinic. The establishments shall
be exempt from facility requirements as provided for in section
5(a)(1).

Section 15. Effective date.

This act shall take effect as follows:

(1) Section 5(a) shall take effect in two years.

(2) Section 10 shall take effect in 60 days.

(3) This section shall take effect immediately.

(4) The remainder of this act shall take effect in 180
days.