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By: **Senators Jacobs, Colburn, DeGrange, Dyson, Ferguson, Hafer, Haines,  
Harris, Hooper, Jimeno, Madden, McCabe, Mooney, Munson, Stoltzfus,  
and Stone**

Introduced and read first time: February 2, 2001  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Abortion - Informed Consent**

3 FOR the purpose of requiring a physician performing an abortion or a referring  
4 physician to provide a woman seeking an abortion with certain information  
5 within a certain time frame; requiring the physician performing an abortion, a  
6 referring physician, or their representative, to provide a woman seeking an  
7 abortion with certain printed materials within a certain time frame that include  
8 certain information; requiring a certain written certification from the physician  
9 performing the abortion or the physician's representative; providing that a  
10 physician who violates the provisions of this Act is subject to disciplinary action  
11 by the State Board of Physician Quality Assurance; and generally relating to the  
12 requirements for informed consent by a woman seeking an abortion.

13 BY adding to

14 Article - Health - General  
15 Section 20-211 through 20-213  
16 Annotated Code of Maryland  
17 (2000 Replacement Volume)

18 BY repealing and reenacting, with amendments,

19 Article - Health Occupations  
20 Section 14-404(a)(39) and (40)  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume)

23 BY adding to

24 Article - Health Occupations  
25 Section 14-404(a)(41)  
26 Annotated Code of Maryland  
27 (2000 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Health - General**

4 20-211.

5 CONSENT TO AN ABORTION IS VOLUNTARY AND INFORMED IF AT LEAST 24  
6 HOURS PRIOR TO THE ABORTION, THE PHYSICIAN WHO IS TO PERFORM THE  
7 ABORTION OR THE REFERRING PHYSICIAN HAS INFORMED THE WOMAN OF:

- 8 (1) THE NATURE OF THE PROPOSED PROCEDURE;
- 9 (2) THE RISKS ASSOCIATED WITH THE PROCEDURE;
- 10 (3) ALTERNATIVES TO THE PROCEDURE THAT A REASONABLE WOMAN  
11 WOULD CONSIDER MATERIAL TO MAKING THE DECISION TO HAVE AN ABORTION;
- 12 (4) THE PROBABLE GESTATIONAL AGE OF THE FETUS ON THE DATE THE  
13 ABORTION IS TO BE PERFORMED; AND
- 14 (5) THE MEDICAL RISKS ASSOCIATED WITH A FULL-TERM PREGNANCY.

15 20-212.

16 (A) AT LEAST 24 HOURS PRIOR TO AN ABORTION, THE PHYSICIAN WHO IS TO  
17 PERFORM THE ABORTION OR THE REFERRING PHYSICIAN, OR A QUALIFIED  
18 PHYSICIAN ASSISTANT, HEALTH CARE PRACTITIONER, TECHNICIAN, OR SOCIAL  
19 WORKER TO WHOM THE RESPONSIBILITY HAS BEEN DELEGATED BY EITHER  
20 PHYSICIAN, SHALL INFORM THE PREGNANT WOMAN THAT:

- 21 (1) THE DEPARTMENT PUBLISHES PRINTED MATERIALS THAT:
- 22 (I) DESCRIBE THE UNBORN CHILD;
- 23 (II) LIST AGENCIES THAT OFFER ALTERNATIVES TO ABORTION;  
24 AND
- 25 (III) PROVIDE DETAILED INFORMATION ABOUT MEDICAL  
26 ASSISTANCE THAT MAY BE AVAILABLE FOR PRENATAL CARE, CHILDBIRTH, AND  
27 NEONATAL CARE;
- 28 (2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE  
29 FATHER OF AN UNBORN CHILD IS RESPONSIBLE FOR CHILD SUPPORT;
- 30 (3) SHE HAS A RIGHT TO REVIEW THE PRINTED MATERIALS; AND
- 31 (4) A FREE COPY OF THE PRINTED MATERIALS WILL BE PROVIDED TO  
32 HER IF SHE CHOOSES TO VIEW THE MATERIALS.

1 (B) IF THE PREGNANT WOMAN SEEKING AN ABORTION IS THE VICTIM OF A  
2 RAPE, THE INFORMATION REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION  
3 MAY BE OMITTED.

4 (C) THE PHYSICIAN PERFORMING THE ABORTION OR A DESIGNATED STAFF  
5 MEMBER SHALL CERTIFY IN WRITING THAT PRIOR TO HAVING AN ABORTION A  
6 PREGNANT WOMAN:

7 (1) WAS OFFERED A FREE COPY OF THE PRINTED MATERIALS  
8 DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION; AND

9 (2) WAS GIVEN AN OPPORTUNITY TO REVIEW THE MATERIALS.

10 21-213.

11 (A) A PHYSICIAN WHO VIOLATES A PROVISION OF § 21-211 OR § 21-212 OF THIS  
12 SUBTITLE IS SUBJECT TO DISCIPLINARY ACTION UNDER THE PROVISIONS OF § 14-404  
13 OF THE HEALTH OCCUPATIONS ARTICLE.

14 (B) A PHYSICIAN MAY NOT BE FOUND IN VIOLATION OF § 21-211 OR § 21-212 OF  
15 THIS SUBTITLE FOR FAILURE TO PROVIDE THE REQUIRED INFORMATION IF THE  
16 PHYSICIAN CAN DEMONSTRATE, BY A PREPONDERANCE OF THE EVIDENCE, THAT  
17 THE PHYSICIAN REASONABLY BELIEVED THAT FURNISHING THE INFORMATION  
18 WOULD HAVE RESULTED IN A SEVERELY ADVERSE EFFECT ON THE PHYSICAL OR  
19 MENTAL HEALTH OF THE PATIENT.

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#### **Article - Health Occupations**

21 14-404.

22 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on  
23 the affirmative vote of a majority of its full authorized membership, may reprimand  
24 any licensee, place any licensee on probation, or suspend or revoke a license if the  
25 licensee:

26 (39) Intentionally misrepresents credentials for the purpose of testifying  
27 or rendering an expert opinion in hearings or proceedings before the Board or those  
28 otherwise delegated to the Office of Administrative Hearings; [or]

29 (40) Fails to keep adequate medical records as determined by appropriate  
30 peer review; OR

31 (41) INTENTIONALLY FAILS TO COMPLY WITH THE PROVISIONS OF  
32 §§ 20-211 AND 20-212 OF THE HEALTH - GENERAL ARTICLE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2001.