

House BILL NO. 442

INTRODUCED BY

ORR Forbes Bergman Wm E Beharok, Curtiss Hanson

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT ONLY A PHYSICIAN MAY PERFORM AN ABORTION; AND AMENDING SECTIONS 37-20-103 AND 50-20-109, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-20-103, MCA, is amended to read:

"37-20-103. Limitations on authority conferred -- exception. Except as provided in 37-10-102, nothing in this chapter may be construed to authorize a physician assistant-certified to perform those functions and duties specifically delegated by law to persons licensed as optometrists, as defined under Title 37, chapter 10. A physician assistant-certified may not perform an abortion."

Section 2. Section 50-20-109, MCA, is amended to read:

"50-20-109. Control of practice of abortion. (1) ~~No~~ An abortion may not be performed within the state of Montana:

- (a) except by a licensed physician;
- (b) after the first 3 months of pregnancy, except in a hospital licensed by the department;
- (c) after viability of the fetus, unless in appropriate medical judgment, the abortion is necessary

to preserve the life or health of the mother.

(2) An abortion under subsection (1)(c) may only be performed if:

(a) the foregoing judgment of the physician who is to perform the abortion is first certified in writing by ~~him~~ the physician, setting forth in detail the facts relied upon ~~which he relies~~ in making ~~such~~ the judgment; and

(b) two other licensed physicians have first examined the patient and concurred in writing with ~~such~~ the judgment. The ~~foregoing~~ certification and concurrence in this subsection (2)(b) is not required if a licensed physician certifies that the abortion is necessary to preserve the life of the mother.

(3) The timing and procedure used in performing an abortion under subsection (1)(c) of this section must be such that the viability of the fetus is not intentionally or negligently endangered, as the term

1 "negligently" is defined in 45-2-101(37). The fetus may be intentionally endangered or destroyed only if  
2 necessary to preserve the life or health of the mother.

3 (4) ~~No~~ A physician, facility, or other person or agency ~~shall~~ may not engage in solicitation,  
4 advertising, or other form of communication ~~having that has~~ the purpose of inviting, inducing, or attracting  
5 any person to come to ~~such the~~ physician, facility, or other person or agency to have an abortion or to  
6 purchase abortifacients.

7 (5) The utilization plan of a physician assistant-certified may not provide for performing abortions.

8 ~~(5)(6)~~ Violation of subsections (1), (2), ~~and (3), and (5) of this section~~ is a felony. Violation of  
9 subsection (4) ~~of this section~~ is a misdemeanor."

10 -END-

APPROVED BY COM ON  
HUMAN SERVICES & AGING

1 *House* BILL NO. *442*  
 2 INTRODUCED BY *Wendy Jank* *Kitzberg, Mike*  
 3 *ORR Forbes Bergman Wm E Boharski, Curtiss Korman*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT ONLY A PHYSICIAN MAY PERFORM AN  
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 6 *I. Miller*

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15 **Section 2.** Section 50-20-109, MCA, is amended to read:

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22 (2) An abortion under subsection (1)(c) may only be performed if:

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 3 **ORR** *Forbes* *Seaman* **Wm E Beharst**, *Curtiss* *Keenan*  
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## 1 HOUSE BILL NO. 442

2 INTRODUCED BY S. SMITH, KITZENBERG, MCGEE, ORR, FORBES, BERGMAN, BOHARSKI, CURTISS,  
3 HERRON, HAYNE, L. SMITH

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