

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cory Atkins

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to informed consent for concurrent surgical procedures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>1/13/2016</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/27/2016</i>

HOUSE No.

By Ms. Atkins of Concord, a petition (subject to Joint Rule 12) of Cory Atkins and Carole A. Fiola relative to informed consent for concurrent surgical procedures. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to informed consent for concurrent surgical procedures.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 70E of chapter 111 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out the first paragraph and inserting in place
3 thereof the following paragraph:-

4 As used in this section, the following words shall have the following meanings:

5 “Attending surgeon”, the surgeon primarily responsible for performing operative
6 procedures and supervising the assisting medical staff.

7 “Concurrent surgical procedure”, any surgical procedure during which the attending
8 surgeon is scheduled to leave the operating room at any point between incision and skin closure
9 of the procedure to participate in the performance or supervision of a different surgical procedure
10 on a different patient.

11 “Elective”, a surgical procedure that is scheduled in advance rather than an emergency
12 procedure.

13 “Facility”, any hospital, institution for the care of unwed mothers, clinic, infirmary
14 maintained in a town, convalescent or nursing home, rest home, or charitable home for the aged,
15 licensed or subject to licensing by the department; any state hospital operated by the department;
16 any “facility” as defined in section 3 of chapter 111B; any private, county or municipal facility,
17 department or ward which is licensed or subject to licensing by the department of mental health
18 pursuant to section 19 of chapter 19; or by the department of developmental services pursuant to
19 section 15 of chapter 19B; any “facility” as defined in section 1 of chapter 123; the Soldiers
20 Home in Holyoke, the Soldiers’ Home in Massachusetts; and any facility set forth in section 1 of
21 chapter 19 or section 1 of chapter 19B.

22 SECTION 2. Said section 70E of said chapter 111, as so appearing, is hereby further
23 amended by striking out, in line 105, the word “and”.

24 SECTION 3. The fifth paragraph of said section 70E of said chapter 111, as so
25 appearing, is hereby amended by striking out clause(o) and inserting in place thereof the
26 following two clauses:-

27 (o) if the patient is a female rape victim of childbearing age, to receive medically and
28 factually accurate written information prepared by the commissioner of public health about
29 emergency contraception; to be promptly offered emergency contraception; and to be provided
30 with emergency contraception upon request; and

31 (p) to refuse to undergo a concurrent surgical procedure, except in emergency situations.

32 SECTION 4. The sixth paragraph of said section 70E of said chapter 111, as so
33 appearing, is hereby amended by striking out clause (h) and inserting in place thereof the
34 following 2 clauses:-

35 (h) in the case of a patient suffering from any form of breast cancer, to complete
36 information on all alternative treatments which are medically viable; and

37 (i) in the case of a patient scheduled for an elective, concurrent surgical procedure, to
38 written notice and informed consent of such concurrent scheduling at least 10 days prior to the
39 surgical procedure.

40 SECTION 5. Said section 70E of said chapter 111, as so appearing, is hereby further
41 amended by inserting after the sixth paragraph the following paragraph:-

42 Except in cases of emergency surgery, at least 10 days before the attending surgeon
43 operates on a patient scheduled for an elective concurrent surgical procedure, the attending
44 surgeon shall inform the patient, in writing, of the concurrent scheduling and the involvement of
45 the attending surgeon in the patient's procedure, and shall obtain written informed consent from
46 the patient prior to performing such procedure. The department shall develop a standardized
47 written summary and consent form for use in obtaining informed consent for concurrent surgical
48 procedures. This summary and consent form shall be written in a manner designed to permit a
49 person unfamiliar with medical terminology to understand its purpose and content and shall
50 inform the patient that they are scheduled to undergo a concurrent surgical procedure. The
51 department shall update the form as necessary, and distribute such forms to each facility in the
52 commonwealth in which the department knows or has reason to know concurrent surgical
53 procedures are performed.

54 SECTION 6. The department of public health shall promulgate rules and regulations
55 necessary to implement this act.