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trying to do is create a situation where a patient goes to a doctor and the presumption should be, on the part of the patient, that the doctor is properly going to perform the services sought and only those services. A woman should not go to a doctor for an appendectomy and in his judgement he performs a hysterectomy. I have examples of this if some of you don't know that this happens. But since there was no agreement in writing that this would not be done, then the doctor has no liability. He is protected from.... If you don't get him to state in writing that he'll promise you freedom from harm based on the procedures, any procedures, and providing any health care, if it's not in writing and something goes wrong you do not have a cause of action against him.

Since Senator DeCamp chose not to tell what an "implied contract" is I think the rest of you can use your common sense and your understanding of language. I believe this Section is abhorrent. It ought to be stricken. The patients are entitled to some kind of consideration. Even though the bill is getting up the steam which will make it run over all opposition like a juggernaut, somethings are still going to be in the record that was brought to your attention and it cannot be stated that people did not understand.

One other thing then I'll sit down. If you look at these definitions that you went through, and some people felt you shouldn't consider too much, here on page 2 Subsection 2 of Section 2 is this: "Any legal word or term of art used in this Act and not otherwise defined shall have such meaning as is consistent with common law".

I would ask ... Senator Luedtke, would you help me with this. Is the term "implied contract" recognized in common law as having a legal meaning?

SENATOR LUEDTKE: Yes.

SENATOR CHAMBERS: So the meaning that "implied contract" would have would have the meaning that common law imparts to it. Would you tell me what an implied contract is, even if it's totally different from what I've said I would like another opinion?

SENATOR LUEDTKE: Well I don't believe.... Senator Chambers, I don't believe I would add to what you said because you gave a very good definition of implied contract.

SENATOR CHAMBERS: That's.... OK.

SENATOR LUEDTKE: I think it was a very excellent definition.

SENATOR CHAMBERS: OK.