

February 26, 1979

LB 316

amendment as found on page 620. The Chair recognizes Senator Chambers to speak on the Venditte amendment (2).

SENATOR CHAMBERS: Mr. Chairman, before I speak, is Senator Johnson intending to amend this in the same fashion?

SPEAKER MARVEL: Is there an amendment on the desk, Mr. Clerk?

SENATOR CHAMBERS: It is parallel language, Senator Johnson, and I just wondered. If you are not, then I will speak to the amendment as it exists here. The language says "whenever possible" is stricken and in its place would be these words "in accord with standard medical practice and sound medical judgment", and if you were going to amend it, then I would just wait until the total amendment is in the form that it will be in and have one discussion cover them both.

SENATOR JOHNSON: Senator Chambers, I am living one section at a time and I haven't gotten to that point yet, but if you want to amend it, why that is well within your prerogative.

SENATOR CHAMBERS: I will not attempt to amend it but I would like to call everybody's attention to the fact that you are on a very fast track here this morning, and if you blink your eyes when you open them again, it is over. You think Speedy Gonzales and Superman are fast. Well that speeding bullet that just went past you the last time should cause you to blink twice, take a deep breath, Pat, pick yourself up, dust yourself off and start all over again even if it means trying to get them to reconsider because look at the structure of the language, and since this amendment is similar to the one that just went before, "according to standard medical practice and sound medical judgment". Senator Venditte was aiming at what you could call at least a quasi objective standard or one which is based not just on what the individual physician will wind up doing based on how he or she feels about the particular case but rather what a plurality or a generality of the physicians in the area faced with a similar case would do. All right, after that was done, Senator Johnson added, "of the attending physician", which now makes it a totally subjective determination by the one individual dealing with the case, and for that I don't condemn Senator Johnson. In fact, I think it was very well done because now we have a clause which I would call a self-destructing piece of legislation. How in the world, if a physician makes a judgment which is contrary to whatever standard medical practice might be determined to be, you can not find him or her to have done anything wrong if he or she has acted in what he or she