

ambiguity is fatal. Since the terms "informed consent" and "written consent" are different in scope and meaning, the "written consent" may vary from the "informed consent" form. Page 5, lines 18 and 19 say, "No abortion shall be performed on any woman" without informed consent. The word "any" would seem to include minor females, unless the word "woman" is meant to exclude them. Section 6 dealing specifically with minor females requires "written consent", not "informed consent". The definition section at page 2, lines 3 and 4, declares that terms will be controlled by the definitions "unless the context otherwise requires". Since the term "informed consent" is found nowhere in section 6, the definition of that term cannot be applicable. There is, I say again, no definition of "written consent". Additionally, a general provision must yield to a specific one. "Each general provision shall be controlled by a special provision on the same subject." That is in Section 29-106 of the Nebraska statutes. The requirement of "informed consent" makes its appearance as part of a general provision related to abortions in general and the use of the word "woman" may exclude minor females. On the other hand, "written consent", undefined, is part of a specific provision which carves out a narrow class, that is, "minor under the age of 18". The use of two different terms in a criminal statute, one of which is undefined, creates an impermissible ambiguity because two possible courses of conduct are left open, thereby, causing a person to be uncertain what conduct is permitted and what is prohibited. Suppose a physician accepted and acted on a "written consent", which differed from the statute's "informed consent" form, from a minor under age 18, would the physician be subject to criminal punishment? The ambiguity comes into play. Suppose, because of the term "written consent", which is mandated by section 6, the physician obtained and relied on the same type of consent obtained for other surgical procedures, as opposed to the statute's "informed consent"? A question exists as to what the physician ought to be free to rely on. Such an ambiguous statutory scheme is "little more than a trap for those who act in good faith." That is from Colautti, 5 FLR 3038. Regarding the physician, it should be kept in mind that LB 316 subjects a physician to criminal penalty under ambiguous circumstances, without the requirement that forbidden acts be done with knowledge or intent--or even notice. Since age and marital status are crucial factors, must a physician demand proof of age and marital status, or may he rely on what he is told by the young female seeking an abortion? What type or quality of proof is sufficient to exempt a physician from criminal