

SENATOR WARNER: Thank you. The next speaker is Senator Landis. First, if I could call your attention, former Senator Chronister is in the back of the room. Senator Chronister, if you would stand and give a welcome to the Legislature. Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, and members of the Legislature, I think Mike Loeffler deserves a merit badge for this and he's worked awfully hard and very diligently on these amendments. I intend to support the amendments and I rise to speak on their behalf. I think they represent a considerable improvement in the policy of the bill and an attempt to make it more workable. I thought I would raise two or three questions that I have interest in over time learning the answer to and allow John a chance to prepare a response to them. I think that this is a good tool and I intend to find a way to support a good durable power of attorney bill and I think this bill goes a long ways towards doing tha*. If anything, I find that the bill is a little...maybe extra technical but perhaps there's good reason for the technical nature of it. And let me just put these several issues on the table to be discussed. If I understand the bill right, and I'm hoping that I'll be corrected if I'm wrong, a person who would qualify to serve as your attorney might well fail to meet one of the standards to become a witness to the durable power of attorney. A person that would not be permitted to be an effective witness still could become an agent. And actually I think the list for becoming the attorney is better than the list for becoming a witness to the durable power of attorney. Secondly, although I find many places in the bill that indicate that people do not have obligations to carry out durable powers of attorney in a variety of circumstances, I have not found, on its face, an affirmative duty to carry out such a durable power of attorney although I do see that in the event there is an unwillingness to do so, they should transfer their obligation. What I'm not sure I understand is the mechanism by which a doctor who simply does not choose to carry out the attorney's instructions is to be disciplined. I hope that we can find that. I haven't been able to do it yet. There is no model set of provisions because, clearly, this is the durable power of attorney which will require a good deal of drafting, I think. What are exactly the wishes of the individual? And, in that sense, clearly this is something that will require going to a lawyer to have it drafted and that may well be appropriate. On the other hand, it is also an instrument which, if I am correct, requires you to go to court