

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 16, 2004 LB 1084

SENATOR ERDMAN: Right.

SENATOR CHAMBERS: And if the person acts in reckless disregard of the truth, there may or may not be knowledge, but the person doesn't care really what the truth is; he or she intends to do this anyway.

SENATOR ERDMAN: I believe that's accurate.

SENATOR CHAMBERS: Okay. But then we get to the need...I meant, there is no need to show a specific intent to defraud. So if we have this person doing these various things, whatever they are, either alone or in concert with others, why should we not require an intent to defraud? And here's the question...here's the way I will ask the question a different way. Can a person commit this fraud without intending to do so?

SENATOR ERDMAN: I believe that the provisions in subsection (1), (2), and (3) on page 3 would make that extremely difficult.

SENATOR CHAMBERS: But by saying "no intent to defraud" throws a wrench into it, from my point. Who wanted that language: need not show a specific intent to defraud? I think you said the hospitals, not the prosecutors. What were the hospitals thinking when they...did they say why they wanted it?

SENATOR ERDMAN: I think this provision may have been in maybe another state's law, but it was designed to show that...it was kind of a clarifying sentence at the end of this section to show who would not fall under this. And I'm trying to remember specifically why no proof of specific intent for...to defraud...

SENATOR CHAMBERS: Okay, if you can't recall, I won't hold you on that, because I'm moving towards something. When we get past that, we get down to line 19: A person shall be deemed to have known that a claim, statement, or representation was false if the person had actual knowledge of the falsity of the claim or representation. So, based on this requirement in subsection (a) (sic) of Section 4, actual knowledge is required. Would you agree?