

fully know, so I'm going to tell you what I think is the answer to the question. Then I'm going to ask John if, in fact, he has any dispute with that to see if it's appropriate or not. I think John's question to Ardyce was, what is the form of...of sanction should the provisions of the Bohlke amendment be implemented and then failed to be carried out by a clinic or a doctor and, to me, the answer is the general rule that applies to every medical case. If you went in with an appendix problem and your doctor advised you to have surgery to remove it, your doctor would be obligated to give you enough information with which to make a knowing decision regarding your fate. If the doctor failed to do so that doctor, I think, would be opening themselves up to civil liability. By failing to give you enough information, they would not have exacted from you then genuine consent. You would have agreed to an invasion of your person, but without the knowledge or basically without sufficient information to make a knowing judgment. So I think the general rule is that you can only lay hands on another person, and this includes a doctor, with their consent. This has to be knowing consent. If they fail to do so, they open themselves up to a malpractice charge. They open themselves up to a civil claim for damages and, in addition, if there was a pattern of doing so I'm going to...I'm going to allege that that would constitute the basis for professional disciplining. If a doctor repeatedly failed, as a course of conduct, to get informed consent they would be committing a professional wrong in addition to a civil wrong. Now I think that's the general rule. I think it would apply if the Bohlke amendment was adopted to 110 and it was passed. I think it would apply even without regard to the LB 110 provisions and sanctions that Senator Lindsay supports, but I'm going to ask Senator Lindsay if he would take issue with that characterization that the general rule of the failure to get informed consent opens a doctor to malpractice and that the repeated practice of doing so opens ones up...ones self up to professional discipline. Would that be a fair characterization of the general rule, Senator Lindsay?

SENATOR LINDSAY: Yes, Senator Landis, at least the first portion I don't think there's any question. The second portion of it, whether the repeated acts would open it up to professional liability, I think if discovered that's a possibility. How we monitor our physicians right now I think is somewhat up in the air. If it's not, it ought to be. It's probably what the rule is. Whether it's being enforced is another question.