

**1999 SENATE HUMAN SERVICES**

**SB 2362**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2362

Senate Human Services Committee

Conference Committee

Hearing Date FEBRUARY 2, 1999

Tape Number	Side A	Side B	Meter #
1	X		
2/8/99 2	X		1,260
2/9/99 1		X	1,740
Committee Clerk Signature <i>Carol Holodziejchuk</i>			

Minutes:

The Human Services Committee was called to order.

The hearing was opened on SB2362.

SENATOR KILZER, sponsor, introduced the bill. (written testimony)

SENATOR LEE asked about the withholding of treatment at the request of the person or person responsible overlapping of hospice. Are there any jeopardizes for those persons who are providing end of life care without heroic treatment. SENATOR KILZER: People who wish to have extraordinary means withheld should have their wishes honored and if they are not honored it is not good medical practice.. SENATOR LEE: Is there any gray area who are providing comfort in end of life care but are not providing heroic or extraordinary care. SENATOR THANE: Where do you draw the line from persons who may benefit from extraordinary measures and extraordinary measures should not be used? Is it a physician's decision?

SENATOR KILZER: All patients have a form about do or do not resuscitate upon entering the hospital. This is honored. There are judgment calls and wishes of patient are made known. A terminal or non-terminal illness is a factor if not stated beforehand.

REPRESENTATIVE KERZMAN sponsor, supports bill. We need to respect life to its fullest and promote it until death. We need to be very proactive with: I have a tremendous respect for life. This bill will put a little teeth into the law. I fully support it.

SENATOR WANZEK, sponsor, supports bill with written testimony.

STACEY PFLINGER, Executive Director of the ND Right to Life Assoc., supports bill in written testimony. Offered an amendment. Line 9 add phrase "or consent to" after 'prior knowledge of'.

Guests were students of Mandan High and Bismarck High were introduced.

CHRISTOPHER DODSON, ND Catholic Conference, supports bill in written testimony.

SENATOR DEMERS asked how many have been prosecuted under the law. Mr. DODSON did not know. SENATOR THANE: Do we have enough alternatives to help people suffering from severe depression facing old age, terminal diseases through hospice or counseling? MR.

DODSON replied that we need to do a better job of addressing end of life issues. We need to do a better job of preventing mental illness in teenagers. We need to do a better job of supporting hospice; of educating people of advanced directives; of determining pain management. A failure to address those needs does not justify turning to assisted suicide. SENATOR LEE: There is a consortium working of the Robert Wood Johnson grant on end of life issues. It focuses on elderly and improves many of the programs we now have. How would this affect teen suicides?

Mr. DODSON: We are trying to stop all assisted suicides. So a person may assist a suicide in

any manner; providing a gun, encouragement. It addresses any person facing end of life or depression of a teenager. Section 2 addresses the physician.

BRUCE LEVI, ND Med Assoc. supports bill. We have applied for the grant from Robert Wood Johnson to deal with terminally ill and elderly people. It's a call to deal with end of life. The planning grant is received; the plan is to stimulate public dialogue, community forces, medical community. The Board of Med examiners agree with this bill. A concern is to compare language of section 1 with wrongful death act. SENATOR DEMERS: Have any physicians been charged? Mr. LEVI stated no, not that he was aware of.

MRS. GARY BENZ, citizen, supports bill. Has experienced many suicides in her family and stated that if someone comes to a physician for this kind of help, there should be a kind of help rather than assisted suicide.

Testimony from ROBERT POWELL was distributed.

SENATOR DEMERS asked about the revocation of licenses. Do we need to cross reference that to chapter 43. Mr. LEVI stated that he didn't think so because the language was broad enough so it would be a generic reference.

SENATOR LEE asked about section 1 is parallel to wrongful death act. We will get more information on that.

The hearing was closed on SB2362.

Discussion resumed on 2/8/99. Amendment on line 9 add or consent to. Amendments of Right to Life. Like to see section 1 amended out because it is already covered in statute. Parallel to wrongful death with assisted suicide. MR. LEVI: Does section 1 of bill dovetails with wrongful death act. Does this section make it more difficult to bring civil action against someone. Is

section 1 redundant or when the suicide doesn't result in death is there a personal injury action?

One of the other requirement is who can bring this lawsuit. SENATOR KILZER asked relating to pensive or punitive damages; in wrongful act is damages against a any person. Is there a difference between those two phrases? MR. LEI stated that he did not think there was any difference. SENATOR DEMURS: Do you have a opinion on the questions you raised? MR.

LEI: If you could bring language to bring it under one or the other or some clarification that conviction under the criminal code is required first to actually bring this kind of action or that would be something that would be proven in a civil action. If you were not able to convict a person in criminal action, you could bring the civil suit against the person. SENATOR THANE:

What would be the result if we amended the bill and took out section 1? MR. LEI: From our standpoint section 2 is redundant; section 1 isn't redundant because there is the ability to bring a lawful death action or some other personal injury action. There could be other provisions in the physicians act that could pull a license. MR. DODOS: I agree with Mr. Levi's description of section 2. In section 1 the purpose is to provide additional remedies; we have now criminal remedy, an injunctive remedy, and if the person dies, certain persons can bring a wrongful death action. The idea was to be able to bring a civil remedy. Deleting the section 1 would defeat the purpose of the bill. Committee discussion continued. SENATOR LEE moved the amendments on line 6-7, line 9 and line 11. SENATOR DEMURS seconded it. More discussion followed.

Roll call vote carried 6-0-0. SENATOR KILLER moved a DO PASS AS AMENDED.

SENATOR FISHER seconded it. Discussion resumed. Roll call vote carried 4-2-0. SENATOR KILZER will carry the bill.

Date: 2/9/99

Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2362

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments

Motion Made By Sen Lee Seconded By Sen DeMers

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Sen Lee -

Date: 2/9/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2362

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Sen Kilzer Seconded By Sen Fischer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers		✓			
Senator Mutzenberger		✓			

Total 4 (yes) 2 (no)

Absent 0

Floor Assignment Sen Kilzer

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

SB 2362: Human Services Committee (Sen. Thane, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2362 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "or the person who"

Page 1, line 7, remove "would have committed suicide, in the case of an attempt,"

Page 1, line 9, after "of" insert "or consent to" and remove "or attempt"

Page 1, line 15, replace "the law of this state" with "title 43"

Renumber accordingly



**1999 HOUSE HUMAN SERVICES**

**SB 2362**

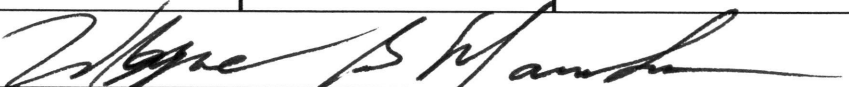
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2362

House Human Services Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1		x	1.4-18.3
Committee Clerk Signature 			

Minutes:

Senator RALPH KILZER, District 47 testified: (Testimony attached)

Rep. ROBIN WEISZ noted that currently in the law there is relief and asked if this bill was an expansion of that. Senator RALPH KILZER replied that current law is criminal law in which it is extremely difficult to obtain a conviction. This bill places assisted suicide in civil law where possible monetary penalties may prevent it.

Senator TERRY WANZEK, District 29 testified that he feels he is obligated to take a stand to defend life. We should do everything within our authority to preserve and protect the sanctity of human life. It is the responsibility of civilized society that champions itself as a defender of human dignity not to tolerate the dangerous notion that it is compassionate to assist people to kill themselves. It is not our place to judge when life is not longer worthy. Please pass Senate Bill

Page 2

House Human Services Committee

Bill/Resolution Number 2362

Hearing Date March 2, 1999

2362. Shared with the committee the loss of an uncle two weeks ago to suicide which makes the issue more important to him.

Rep. CAROL NIEMEIER requested information relative to who could sue according to the bill..

Senator TERRY WANZEK explained he didn't have sufficient legal knowledge to answer. Rep.

ROBIN WEISZ noted that the bill provides that anyone who could inherit can sue.

Rep. JAMES KERZMAN, District 35 testified that he feels strongly that life should be lived to the fullest always. Criminal law is insufficient to stop this. Civil law which can hit the offender in the pocketbook is effective as well as the possible loss of license. We don't want assisted suicide in North Dakota.

STACEY PFLIIGER, Executive Director of the North Dakota Right To Life Association

testified: (Testimony attached)

Rep. WILLIAM DEVLIN asked why civil action could be effective if criminal action was not.

STACEY PFLIIGER noted that civil action requires a lesser level of evidence to obtain a conviction which makes conviction easier.

CHRISTOPHER DODSON, Executive Director, North Dakota Catholic Conference testified:

(Testimony attached)

OPPOSITION TO SB2362

Hearing Closed on SB2362

Rep. CLARA SUE PRICE appointed a subcommittee made up of Rep. PAT GALVIN , Rep.

AMY KLINISKE and Rep. SALLY SANDVIG .

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2362

House Human Services Committee

Conference Committee

Hearing Date March 8, 1999

Tape Number	Side A	Side B	Meter #
3	x		22.1-end
Committee Clerk Signature <i>Wayne B. Jambor</i>			

Minutes:

Rep. AMY KLINISKE moved an amendment to exclude the health care provider from being able obtain civil damages. Rep. TODD PORTER seconded.

Motion PASSED on voice vote: 15-0-0

Rep. SALLY SANDVIG moved an amendment that "does not preclude any claim under any other provision of law." Rep. CAROL NIEMEIER seconded.

Motion PASSED on voice vote: 15-0-0.

Rep. ROBIN WEISZ moved an amendment to delete section 2 of the engrossed bill. Rep.

WILLIAM DEVLIN second. After discussion the motion was voted on.

Motion Failed on Roll Call vote: 4-11-0.

Rep. TODD PORTER made a motion to "DO PASS AS AMENDED". Rep. BLAIR

THORESON seconded.

Page 2

House Human Services Committee

Bill/Resolution Number 2362mar8

Hearing Date March 8, 1999

Motion PASSED on roll call vote #8: 12 yes, 3 no, 0 absent.

CARRIER: Rep. TODD PORTER

90338.0201  
Title.

*Amendment  
#1*

Prepared by the Legislative Council staff for  
Representative Kliniske  
March 2, 1999

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2362

Page 1, line 6, after "under" insert "subsection 1 of" and after "12.1-16-05" insert ", except the health care provider,"

Renumber accordingly

90338.0202  
Title.

*Amendment #*  
*2*

Prepared by the Legislative Council staff for  
Representative Sandvig  
March 8, 1999

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2362

Page 1, line 6, after "under" insert "subsection 1 of"

Page 1, line 9, after the period insert "This section does not preclude any claim under any other provision of law."

Renumber accordingly

VR  
3/9/99

**HOUSE** AMENDMENTS TO ENGROSSED SENATE BILL NO. 2362 **HUMSER** 3/9/99

Page 1, line 6, after "under" insert "subsection 1 of" and after "12.1-16-05" insert ", except the health care provider,"

Page 1, line 9, after the period insert "This section does not preclude any claim under any other provision of law."

Renumber accordingly



Date: 3/8/99  
 Roll Call Vote #: 7

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2362

House Human Services Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number ~~SB 2362~~

Action Taken Amendment # 3 remove

Motion Made By Rep Weisz Seconded By Rep Devlin

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman		✓	Bruce A. Eckre	✓	
Robin Weisz - Vice Chairman	✓		Ralph Metcalf		✓
William R. Devlin	✓		Carol A. Niemeier		✓
Pat Galvin		✓	Wanda Rose		✓
Dale L. Henegar	✓		Sally M. Sandvig		✓
Roxanne Jensen		✓			
Amy N. Kliniske		✓			
Chet Pollert		✓			
Todd Porter		✓			
Blair Thoreson		✓			

Total Yes 4 No 11  
 Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
Remove Section 2 from Engrossed bill

Date: 3/8/99  
 Roll Call Vote #: 8

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2362**

House Human Services Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number ~~SB2362~~

Action Taken Do Pass as Amended

Motion Made By PORTER Seconded By T

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	✓		Bruce A. Eckre		✓
Robin Weisz - Vice Chairman		✓	Ralph Metcalf	✓	
William R. Devlin	✓		Carol A. Niemeier	✓	
Pat Galvin	✓		Wanda Rose	✓	
Dale L. Henegar	✓		Sally M. Sandvig	✓	
Roxanne Jensen		✓			
Amy N. Kliniske	✓				
Chet Pollert	✓				
Todd Porter	✓				
Blair Thoreson	✓				

Total Yes 12 No 3  
 Absent 0

Floor Assignment Porter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 9, 1999 12:46 p.m.

Module No: HR-42-4325  
Carrier: Porter  
Insert LC: 90338.0203 Title: .0300

**REPORT OF STANDING COMMITTEE**

**SB 2362, as engrossed: Human Services Committee (Rep. Price, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2362 was placed on the Sixth order on the calendar.

Page 1, line 6, after "under" insert "subsection 1 of" and after "12.1-16-05" insert ", except the health care provider,"

Page 1, line 9, after the period insert "This section does not preclude any claim under any other provision of law."

Renumber accordingly

1999 TESTIMONY

SB 2362

## TESTIMONY ON SB 2362

PRESENTED BY SENATOR RALPH KILZER

FEBRUARY 2, 1999

Good morning Mr. Chairman and fellow members of the Human Services Committee.

I stand before you this morning as the primary sponsor of this bill in further opposition to physician assisted suicide. At the present time, the criminal code states that any person who intentionally or knowingly aids, abets, facilitates, solicits, or incites another person to commit suicide or who provides to, delivers to, procures for, or prescribes for another person any drug or instrument with knowledge that the other person intends to attempt to commit suicide with the drug or instrument is guilty of a Class C Felony. In addition, the criminal codes states that any person who, through deception, coercion, or duress, willfully causes the death of another person by suicide, is guilty of a Class AA Felony. This legislation would add to the penalty by stating that the licensing agency may suspend or revoke the license or certification of a person who commits such an act. This suspension or revocation maybe carried out by the licensing agency after the conviction.

When I graduated from medical school more than 30 years ago, I would never have dreamed that physician assisted suicide would be a hot topic of discussion. Never would I have anticipated the results of the election in Oregon where physician assisted suicide is the law of the state. While the Kavorkian antics in Michigan are newsworthy, we can see how slippery some of these cases can be. In fact, a more careful scrutiny of Kavorkian's 100 plus cases, shows that the majority of them were not terminally ill and were suffering treatable depression. When we look at the situation in Holland, I become frightened.

The focus of the physician's efforts should remain on the development of a trusting physician-patient relationship. The physician must always have the welfare of his patient first and foremost. This should never involve the ending of the patient's life nor should there ever be a deception of the patient's trust.

This is permissive legislation. It does give the licensing board the authority to pull a license in the event of a conviction of such a crime. I ask your support for passing this bill. Thank you.

Mr. Chairman and committee, it is never easy to take a stand on an emotionally sensitive issue. However I felt obligated to take this stand when I was presented with an opportunity to defend life. I believe there is no greater gift than life itself. We should do everything within our authority to preserve and protect the sanctity of human life. I believe it is the responsibility of a civilized society, that champions itself as a defender of human dignity, not to tolerate a dangerous notion, that it is compassionate to assist people in killing themselves. It would be a very slippery slope that would continue to erode and undermine the precious gift of life. It is not our place to judge when a life is no longer worthy. That is for someone greater than us. Lets pass SB 2362 and maintain our will to live. Let us continue to dignify Human Life.

Senator Wanzek



NDRL

*North Dakota Right to Life Association*

**Testimony Before The SENATE HUMAN SERVICES COMMITTEE**

**Regarding SENATE BILL 2362**

**February 2, 1999**

Chairman Thane, members of the committee, I am Stacey Pflieger, Executive Director of the North Dakota Right To Life Association. I am here today in support of SB 2362 which relates to the prevention of assisted suicide.

SECTION 1 will add a new section to Chapter 12.1-16 of the North Dakota Century Code by adding Civil Damages as a penalty for assisting in a suicide. An action under this section may be brought whether or not the plaintiff had prior knowledge of the violation or attempt. Assisting suicide is not a 'victimless' crime--that apart from the suicide victim himself or herself, those close to the one who dies are harmed. This legislation provides that plaintiffs may bring such cases even if they consented to the killing. Those who assist in a suicide will know they cannot ensure a cover-up even by involving family members in the conspiracy since those who know will not be prevented from suing and will have a strong financial incentive to do so. At this time I would also like to propose a change to line 9 of SB 2362. The change is to add the phrase or consent to after "prior knowledge of". The new sentence will then read, "Prior knowledge of or

Page 1 of 3

consent to the violation or attempt by the plaintiff does not preclude a claim for relief under this section.”

SECTION 2 will add a new section to Chapter 12.1-16 of the North Dakota Century Code by adding the suspension or revocation of the license of the health care provider. This section puts licensed professionals on notice that assisting suicide is unprofessional conduct. The state licensing agency may revoke or suspend the professional’s license to practice in the state. Since the suspension and revocation of a professional’s license prevents them from earning a living as a professional this will have a large deterrent effect. In addition, this sanction deprives the violator of his or her professional status and reduces their ability to assist future suicides. It also allows the respective professions to demonstrate disapproval of assisted suicide.

Our existing law on assisted suicide in North Dakota is a good, sound law. However, the law needs to add these two sections as additional safeguards to the citizens of North Dakota.

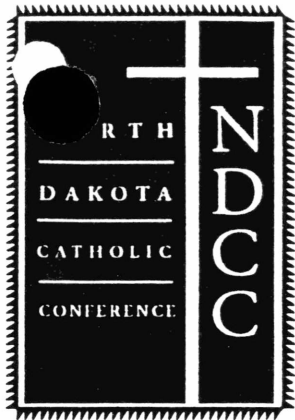
I would like to remind everyone in this room about Mr. Jack Kevorkian. He has finally confessed to being a party to over 120 assisted suicides, but insisted that his most recent assisted suicide of Mr. Thomas Youk was the first in which he himself-not the patient-actually administered the lethal dosage. This man taunted authority successfully in the four attempts to convict him of assisting in a suicide. Three ended in acquittals, a fourth



in a mistrial, but he is still free because a jury is still unwilling to convict him. This man is no longer assisting terminally ill persons in suicide, but he has moved on to assisting persons with Alzheimer's or depression in a suicide. It is obvious that a criminal penalty will not stop him or others like him.

I urge this committee give SB 2362 a do pass recommendation. By passing this legislation the threat of a lawsuit and revoking one's license may deter someone from performing an assisted suicide in North Dakota.

At this time I would be available for any questions you may have.



*Representing the Diocese of Fargo  
and the Diocese of Bismarck*

Christopher T. Dodson  
Executive Director and  
General Counsel

**To:** Senate Human Services Committee  
**From:** Christopher T. Dodson, Executive Director  
**Subject:** Senate Bill 2362 (Relating to the Prevention of Assisted Suicide)  
**Date:** February 2, 1999

The North Dakota Catholic Conference supports Senate Bill 2362.

The purpose of this bill is straightforward -- it provides civil remedies against a person who violates North Dakota's law against assisted suicide. North Dakota has wisely enacted laws against assisted suicide. Under the existing law, assisting a suicide is either a Class AA or Class B felony.

Senate Bill 2362 provides a civil remedy against someone who violates that law. North Dakota has already determined that criminal action should not be the only remedy for assisted suicide. North Dakota Century Code section 12.1-16-05 permits a claim for injunctive relief against a person who assists a suicide. This bill would add some additional enforcement mechanisms by permitting a civil action for damages against a person who violates or attempts to violate the assisted suicide statute.

This bill is needed for several reasons. First, it reflects our desire as a society to take assisted suicide seriously. Even as proponents of assisted suicide become more vocal, the people of North Dakota need to make it known that we do not accept assisted suicide as an answer to depression, aging, pain, loneliness, or any other problem and we will back up that belief with, among other things, real enforcement mechanisms for stopping assisted suicide.

Second, the experience of other states, such as Michigan, demonstrates that it is not sufficient to rely on criminal procedures alone to stop assisted suicide. The controversies surrounding assisted suicide, the additional burdens in criminal cases, and the need to rely on prosecuting attorneys, have too often frustrated attempts to achieve justice in matters concerning assisted suicide in states where the sole remedy was through the criminal process.

277 W. Broadway, Suite 2  
Bismarck, ND 58501  
223-2519  
1-888-419-1237  
FAX # (701) 223-6075

Third, the state's wrongful death law is insufficient to address assisted suicide. A wrongful death occurs only if a death occurs. SB 2362, however, would provide an action for both assisting a suicide and attempting to assist a suicide. As a result, the person who would have committed suicide would have standing.<sup>1</sup>

Finally, it should be noted that SB 2362 does not change any definitions concerning assisted suicide or any law concerning what is not assisted suicide. It merely adds a greater range of enforcement mechanisms.

We urge a **Do Pass** recommendation on Senate Bill 2362.

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<sup>1</sup> In addition, the person's health care provider, sibling, or person entitled to inherit would have standing under SB 2362 and not the wrongful death statute (N.D.C.C. § 32-21-03.)

SB 256

1127 Hoover Street  
Dickinson, North Dakota 58601  
January 27, 1999

Legislative Council  
600 E. Boulevard  
Bismarck, North Dakota 58505

Attention: Human Services Committee

I am writing in reference to proposed legislation co-sponsored by Representative James Kerzman of Mott, that would allow for civil penalties in cases of health care provider assisted suicide. When a health care providers initiate measures to terminate the suffering of a terminally ill person, for which there is no hope of recovery, the proper term is **euthanasia**.

I do not want to live in a state where I or my immediate family members have no legal recourse in determine the means of my final demise. I do not fear death. I do, however, have great concerns about the process of my departure from this world. I do not want to end my days caught up in any endless process of dying, bringing a lengthy period of pain and suffering to myself and my family.

If I am fortunate enough to be under the care of a compassionate health care provider as I near death, my earnest hope is that the provider would honor the wishes of myself (as dictated by a living will) and my family, and take measures to relieve and even end my suffering when it is determined that all hope is gone.

I believe this is or should be my right. To die with dignity, if medically possible, and I do not want anyone or any governmental body through legislated morality interfering with this right. The government ran my life while I was living, and I believe it should do me the courtesy of letting go as the time of my death approaches.

I also do not want the Catholic church, imposing through legislation, their beliefs and philosophies into the life of me and my family members. If persons of the Catholic faith wish to prolong pain and suffering at the time of death let them confine these standards to members of their own faith.

Is euthanasia a problem in North Dakota? Is it a procedure that is being abused by health care providers? I have had several acquaintances pass on in the twenty-six years I have lived in the state and I am not aware of euthanasia being involved in any of their deaths.

I further believe that if the legislation as proposed by Kerzman were to become law, it would subsequently be challenged in court and be found to be unconstitutional.

Respectfully,

*Robert D. Powell*

Robert D. Powell

## TESTIMONY on SB 2362

Prepared by Senator Ralph Kilzer

March 2, 1999

Madam Chairman and members of the House Human Services Committee. For the record, my name is Ralph Kilzer, Senator from District 47, which is Northwest Bismarck. I appear before you this morning as the prime sponsor of SB 2362 which relates to the prevention of assisted suicide. SB 2362 would allow civil damages against a person who assisted a victim of suicide. In Section 1, civil damages are allowed to the estate of a victim of suicide from someone who assists in the suicide. In Section 2 of the bill, the license of someone who administers health care may be suspended or revoked because of such a deed.

We are all aware of the unethical behavior of Dr. Kevorkian, and the difficulty of the State of Michigan in dealing with this physician. We also are aware of the law in the State of Oregon. While the AMA has taken a stance against physician-assisted suicide, the AMA is not the licensing board who grants and suspends licenses. I urge you to support this bill, and I would be happy to attempt to respond to any questions that you might have.



*North Dakota Right to Life Association*

**Testimony Before The HOUSE HUMAN SERVICES COMMITTEE**

**Regarding SENATE BILL 2362**

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SECTION 2 will add a new section to Chapter 12.1-16 of the North Dakota Century Code by adding the suspension or revocation of the license of the health care provider. This section puts licensed professionals on notice that assisting suicide is unprofessional conduct. The state licensing agency may revoke or suspend the professional's license to practice in the state. Since the suspension and revocation of a professional's license prevents them from earning a living as a professional this will have a large deterrent effect. In addition, this sanction deprives the violator of his or her professional status and reduces their ability to assist future suicides. It also allows the respective professions to demonstrate disapproval of assisted suicide.

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in a mistrial, but he is still free because a jury is still unwilling to convict him. This man is no longer assisting terminally ill persons in suicide, but he has moved on to assisting persons with Alzheimer's or depression in a suicide. It is obvious that a criminal penalty will not stop him or others like him.

I urge this committee give SB 2362 a do pass recommendation. By passing this legislation the threat of a lawsuit and revoking one's license may deter someone from performing an assisted suicide in North Dakota.

At this time I would be available for any questions you may have.



*Representing the Diocese of Fargo  
and the Diocese of Bismarck*

Christopher T. Dodson  
Executive Director and  
General Counsel

**To:** House Human Services Committee  
**From:** Christopher T. Dodson, Executive Director  
**Subject:** Senate Bill 2362 (Relating to the Prevention of Assisted Suicide)  
**Date:** March 2, 1999

The North Dakota Catholic Conference supports Senate Bill 2362.

The purpose of this bill is straightforward -- it provides the availability of civil damages against a person who violates North Dakota's law against assisted suicide. North Dakota has wisely enacted laws against assisted suicide. Under the existing law, assisting a suicide is either a Class AA or Class C felony.

Senate Bill 2362 provides a civil remedy for someone harmed, other than a potential victim, by an assisted suicide. North Dakota has already determined that criminal action should not be the only remedy for assisted suicide. North Dakota Century Code section 12.1-16-05 permits a claim for injunctive relief against a person who assists a suicide. This bill would add some additional enforcement mechanisms by permitting a civil action for damages against a person who violates or attempts to violate the assisted suicide statute.

This bill is needed for several reasons. First, it reflects our desire as a society to take assisted suicide seriously. Even as proponents of assisted suicide become more vocal, the people of North Dakota need to make it known that we do not accept assisted suicide as an answer to depression, aging, pain, loneliness, or any other problem and we will back up that belief with, among other things, real enforcement mechanisms for stopping assisted suicide.

Second, the experience of other states, such as Michigan, demonstrates that it is not sufficient to rely on criminal procedures alone to stop assisted suicide. The controversies surrounding assisted suicide, the additional burdens in criminal cases, and the need to rely on prosecuting attorneys, have too often frustrated attempts to achieve justice in matters concerning assisted suicide in states where the sole remedy was through the criminal process.

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Third, the state's wrongful death law and traditional tort law is insufficient to address assisted suicide. A wrongful death occurs only if a death occurs. SB 2362, however, would provide an action for both assisting a suicide and attempting to assist a suicide.

Finally, it should be noted that SB 2362 does not change any definitions concerning assisted suicide or any law concerning what is not assisted suicide. It merely adds a greater range of enforcement mechanisms.

We urge a **Do Pass** recommendation on Senate Bill 2362.