

2017 SENATE JUDICIARY

SB 2151

# 2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

SB 2151  
1/23/2017  
27218

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to health care directives.

Minutes:                      Testimony attached #

1

**Chairman Armstrong** called the committee to order on SB 2151. All committee members were present. Testimony was handed out with a proposed Amendment. (see attachment 1)

**Grant Schaft, lobbyist for state Bar Association of North Dakota**, testified in support of the bill. No written testimony. He went over what he liked about the bill and discussed the new language which is under part B.

“A healthcare directive is what we consider a living will in today’s age. It just provides a section where it allows you to state you are an organ donor, and what organ you would like to donate at the time of your death, then you would initial. But there is no option for you to choose if you do not want to be an organ donor. So this bill will just add a section B where the person answering the questions can initial that they do not wish to be an organ donor. This just provides for better uniformity on the form. That’s all this bill does, just gives that option.”

**Senator Larson:** “Can this replace the medical durable power of attorney that you sometimes have to sign?”

**Grant Schaft:** “Those are interchangeable documents. The official format in North Dakota is this health care directive. This particular section deals with your intention regarding organ donors. This is the statutory required language.”

**Senator Larson:** “If I were to fill one of these out and take it to the hospital with me to have surgery, could I then avoid filing that medical durable power of attorney?”

**Grant Schaft:** “Yes. You would file this, this takes care of that.”

**Senator Nelson:** “My Driver’s License says I’m a donor, will this cause any problems with the Department of Transportation.”

**Grant Schaft:** "Not specifically, typically it is the later document that would control. So if you had a Driver's License that said you are not an organ donor, but you later filed a health care directive that you would like to be an organ donor, that health care directive would be correct under the law, and vice-versa."

**Senator Nelson:** "I'm surprised that the doctor wouldn't have you sign one on language right away."

**Grant Schaft:** "The form I'm talking about usually deals with lawyers."

**Chairman Armstrong** closed the hearing on SB 2151.

**Senator Nelson** motioned for a Do Pass. **Senator Larson** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.  
The motion carried.

Senator Larson noticed that there was an amendment request that was written on the testimony handed out. (see attachment 1)

**Chairman Armstrong** asked **Grant Schaft** if he is okay with adopting the amendment on attachment 1. Grant Schaft said that that is fine.

**Grant Schaft** was called back up to the microphone.

**Chairman Armstrong:** "Are there people other than doctors who do this?"

**Grant Schaft:** "The reason for this is if you come into the hospital and all the doctors are busy, you may be dealing with somebody who is not a doctor. So this has a little broader application so that it will apply to anyone who is dealing with you under that health care directive. I don't think there is an issue with that."

**Chairman Armstrong:** "These are serious decisions at the end of time, and decisions that need to be made quickly and there is a lot of emotion going on, so if there is anything we can do as a legislature to sterilize the process we should do it."

**Senator Nelson** motioned to reconsider the Do Pass. **Senator Larson** seconded.

A Voice Vote was taken.  
The motion passed.

**Senator Luick** motioned to Adopt the Amendment. **Senator Larson** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0  
The motion carried.

**Senator Luick** motioned for a Do Pass as Amended. **Senator Myrdal** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.  
The motion carried.

**Senator Osland** carried the bill.

CA  
1/23/17

January 23, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2151

Page 5, line 28, overstrike "doctors" and insert immediately thereafter "health care providers"

Page 6, line 3, overstrike "doctor" and insert immediately thereafter "health care provider"

Renumber accordingly



**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2151**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Nelson    Seconded By Senator Larson

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong | X   |    | Senator Osland | X   |    |
| Vice-Chair Larson  | X   |    |                |     |    |
| Senator Luick      | X   |    |                |     |    |
| Senator Myrdal     | X   |    |                |     |    |
| Senator Nelson     | X   |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |

Total    (Yes) 6    No 0

Absent 0

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

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

1/23/17  
2

Date:  
Roll Call Vote #

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2151

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Nelson Seconded By Sen. Larson

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong |     |    | Senator Osland |     |    |
| Vice-Chair Larson  |     |    |                |     |    |
| Senator Luick      |     |    |                |     |    |
| Senator Myrdal     |     |    |                |     |    |
| Senator Nelson     |     |    |                |     |    |
| voice vote         |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Motioned Passed

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2151**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:     Reconsider     \_\_\_\_\_

Motion Made By Senator Luick Seconded By Senator Larson

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong | X   |    | Senator Osland | X   |    |
| Vice-Chair Larson  | X   |    |                |     |    |
| Senator Luick      | X   |    |                |     |    |
| Senator Myrdal     | X   |    |                |     |    |
| Senator Nelson     | X   |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |

Total (Yes) 6 No 0

Absent 0

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

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

Page 5, line 28 and page 6, line 3 – the word “doctors” be changed to “health care provider” since health care provider is used in other areas of the bill.



**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2151**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0665.01001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Luick Seconded By Senator Myrdal

| Senators           | Yes | No | Senators       | Yes | No |
|--------------------|-----|----|----------------|-----|----|
| Chairman Armstrong | X   |    | Senator Osland | X   |    |
| Vice-Chair Larson  | X   |    |                |     |    |
| Senator Luick      | X   |    |                |     |    |
| Senator Myrdal     | X   |    |                |     |    |
| Senator Nelson     | X   |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |
|                    |     |    |                |     |    |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Osland

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

**REPORT OF STANDING COMMITTEE**

**SB 2151: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Sixth order on the calendar.

Page 5, line 28, overstrike "doctors" and insert immediately thereafter "health care providers"

Page 6, line 3, overstrike "doctor" and insert immediately thereafter "health care provider"

Renumber accordingly

**2017 HOUSE HUMAN SERVICES**

**SB 2151**

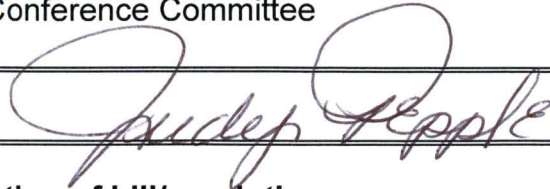
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2151  
3/15/2017  
29232

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to health care directives.

## Minutes:

1, 2

Chairman Weisz: Called the committee to order.

Sen. Holmberg (presented the testimony of Grant Shaft)  
Grant Shaft, Chr. Of the Real Property, probate and Trust Section of St. Bar Assoc. of ND  
(Attachment 1)

Chairman Weisz: Questions from the committee?  
2:30

Vice Chairman Rohr: There is a third option. They can donate their body to science at UND.

Sen. Holmberg: That is a whole different thing that what is being discussed here.

Chairman Weisz: Sen. Holmberg, there is one other change in here and I didn't look if it was amended or not. Where it changed doctor to healthcare provider.

Sen. Holmberg: That was done in committee. They thought that was a more appropriate phrase was healthcare provider rather than the doctor.

Representative Skroch: Is this a template that is the highly recommended template that everyone should use? If that is the case, would someone be allowed to draft anything with their attorney that is different than this and it would still be recognized as an advanced directive?

Sen. Holmberg: I am not an attorney. I can't answer that. This is the suggested form.

Chairman Weisz: That is what was suggested in committee too.  
Are there further questions from the committee?

Chairman Weisz: Is there any further testimony in support of SB 2151



Cheryl Rising, FNP  
(Attachment 2)

Representative Porter: Are we making health care providers too broad instead of listing them? What is the definition of healthcare provider in the century code? Do we want to limit it to something? What are we actually doing here.

C. Rising: I don't know what the century code says. They just wanted to put healthcare provider in there. I can't speak to other professions than FNP.

Chairman Weisz: I would guess also that it also has to do with who you want to be your healthcare provider. It would have to be someone that is capable of providing healthcare.

Representative P. Anderson: Are you seeing more people that are willing to talk about this and do this? Talking about end of life decisions and so forth? So much of our medical costs are end of life costs, so are we seeing more people wanting to be actively involved in what that means to them?

C. Rising: Yes, there is significant increase in the people that are setting up advanced directives. We always ask each new patient we see if they have an advanced directive. If they don't we highly encourage them to get one. Also if there is a change in their condition we go back over that directive to be sure they don't want to make some changes.

Chairman Weisz: Are there any questions from the committee? Seeing none, thank you. Is there further testimony in support of SB 2151?

Christopher Dodson, ND Catholic Organization

If this helps someone make a decision about their end of life, that is a good thing. I think I can answer most of the questions that were asked. First of all, I want to disagree respectfully with Senator Holmberg. This portion of the chapter is entirely optional. We specifically took out the work preferred when it was written. In fact, we came fairly close to not having this form at all. Our current advanced directive statute was written to encourage plurality. It is supposed to reflect the person's individual wishes. Unfortunately, some attorneys still want to use the statutory form. Every workshop I have been to in the last 20 years, the healthcare providers, Catholic and non-Catholic, they all say don't use the statutory form. It is not the preferred form in the profession of those who deal with advanced care, but some people still use it. If they don't understand that they can write in what their wishes are on organ donation or even donation to medical science. It can all be put in there. Healthcare provider is in another part of this chapter. It is meant to cover a broad group because it covers the hospital and long term care centers, because they are the ones that have to enforce the health care directive or respect it may be a better word. It is defined elsewhere and pretty broadly. Then of course that doesn't mean you can do something outside of your scope of practice. I am trying to remember what some of the other questions were. It was something I felt proud to be part of, because it was a well written advanced directive policy when I compare it to other states. It has encouraged plurality, increased use of healthcare directives, not to the extent we want, but it is coming. Statistically it is not where we would like it. There are still problems



between what the healthcare directive says and being sure the healthcare provider knows about it and follows it rather than just turning to a family member.

Representative Porter: Inside of the statute it says "healthcare provider means an individual or facility licensed". So where the senate changed it on page 5 line 28 from doctor to healthcare provider, it now makes the facility will keep me comfortable and reduce my pain. That is not a function of the facility. It is a function of an individual, so did they use the wrong term? Should we be specific and just add to doctor, family nurse practitioner, those people that can do what is specifically being asked for on lines 28, 29, and 30? To me what the definition facility doesn't fit now with where they are putting it in here.

C. Dodson: I wasn't there when they had the discussion. I would like to think this through before I answer. I think the intention of the chapter was that you are obligated to do what the healthcare directive says in the scope of your practice. I guess, does an optional form change the practice? That is not part of the statute. It is just a form that was put in there to help people. I still would like to think that through and see if it changes anything. I can't remember why doctor was used in the first place.

Representative Porter: It reads that the component of it is the relationship between the patient and their physician at the time that this was written. They agree inside of this that they will keep me comfortable and reduce my pain. This is how I feel about pain relief if it could affect my alertness or could shorten my life. It is a statement back to my physician who would prescribe the medication for the pain that would do what is in those 3 lines. I think that by adding healthcare provider and then having the definition state that it is including the facility, they are not in charge of the pain and they are not in charge of that part of my healthcare directive. That is between me and my physician, so now over time we have created Family Nurse Practitioner since this was first a document that they have the prescriptive rights to do this provision also. I am not sure that by crossing doctor out and inserting healthcare providers under this definition works. It should just list specifically the individuals who I am having that relationship with. I think it needs to say specifically what lines 28 – 30 were intended to do and who can do it.

C. Dodson: Representative Porter, you have raised a number of questions and things to think about and it brings me back to why I opposed the form being in statute. I could have a healthcare directive that says, "I want my doctor or whatever to keep me comfortable" whether that is within their scope of practice or not, but it has the same legal effect as this does. That is what is odd about having an optional form in there. It raises questions and that is where it gets weird to answer, because we could say I want my mother to keep me comfortable. Write what you want, but they are only allowed to do what they are allowed to do under the law. We are dealing with an optional form that people can use if they can't find one somewhere else.

Chairman Weisz: further questions from the committee?

Chairman Weisz: Is there further testimony in support of SB 2151?  
Further support?

Chairman Weisz: Is there any testimony in opposition of SB 2151?

House Human Services Committee

SB 2151

3/15/17

Page 4

Is there any opposition?

Closed the hearing on SB 2151



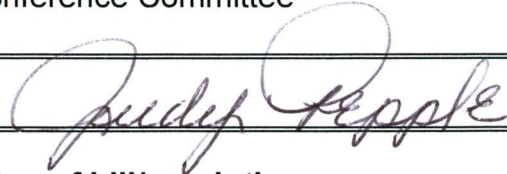
# 2017 HOUSE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Union Room, State Capitol

SB 2151  
3/20/2017  
29479

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to health care directives.

## Minutes:

Chairman Weisz: Opened the discussion on SB 2151. I know there was some question about the language. I don't think the format on page 6 is very easy to navigate. I think it should be a check box. That was their change and then there was a change to healthcare provider. A couple of us were on this committee when we did this and it was a lengthy debate. It should be an either or check list of either yes I want to be an organ donor or no I don't want to be an organ donor. I didn't draft it. There was a change to healthcare provider

Representative McWilliams: I would like to say on page 5 line 28 where it says healthcare providers where we scratched out doctors. I would like to it just be a blank. Any individual filling out this form can name somebody if they wish and maybe in parentheses they can put doctor, nurse, family member or whatever instead of naming a specific.

Chairman Weisz: Just to be clear committee, this is not a form that anybody has to use. An attorney can write up any kind of healthcare directive they want. This is just to give them a template that they could use, but an attorney could draw up whatever and it would be legal too. On page 6 it says "who would I like to be my health care provider?" You would state who your healthcare provider is. It gives you several lines to put in who you specify. There is nothing here that says you have to put someone in there. I think the organ donor section added some confusion. It could have been easier with just yes or no.

Representative P. Anderson: I think this is a do no harm and if it gets people to talk, I think it is good. I would recommend a do pass. I don't know if that is appropriate to say now.

Chairman Weisz: I will say this before you decide that. If you look at this where it says do you want to be an organ donor or you don't want to be an organ donor and there is a tiny little check mark.

Representative Skroch: I had a visit with a gentleman that I trust and he said why do we have to put this into century code? Any attorney has a template in their office that they can use.

Is this the version offered to someone who doesn't have a lawyer? Or is there a stronger reason why we need to make this part of century code? Does it have any teeth in it if we do put it into code?

Chairman Weisz: I know that this one isn't any better than another one from the standpoint that it doesn't have teeth. You make your issues know. We did this in 1999 because there were a lot of issues about health care directives out there that were not done properly. Basically healthcare providers came in and wanted us to try to do something to end the confusion and they thought it would help to have a standardize the form. So we did this and it allows people to cross out something if they don't want it or add something else they want in it.

Representative Porter: It is kind of interesting to go through this after 20 years. When you look at this. It is fairly dated in time. I don't know if we want to look at it and take the time. Page 9 line 17 it talks about withdrawal from the agreement. Mom's healthcare provider now might be a nurse practitioner instead of a doctor. That was where part of my thoughts were when we were look through this. If we are going to keep it in the century code then we should at least take the time to make it relevant to today's practice of medicine rather than have it be an outdated document that just adds organ donors.

Chairman Weisz: Do you have suggested amendments? Or do you want to add that language instead of doctor?

Representative Porter: I am not sure in like Line 28 on page 5. It talks about who is going to keep me comfortable and ease my pain? I am ok with the word healthcare provider there, because a person is going to have to list somebody if they are not capable of writing a prescription to take care of my pain the family is going to have to find somebody else anyway. I think what we should do is quickly look through the document and be sure the language is updated. For sure on line 17 that on page 9 needs to change. That is the only one I found so far. We could go through it real fast.

Chairman Weisz: Health care provider would work there.

Representative Porter: Even when we get up to the first declarations they start using that verbiage on page 2 line 9. Your treating healthcare provider, so I don't have any problem using that verbiage throughout the document. If we get into the area where it comes to the end and they are making the assumption that your healthcare provider is a physician is where I think it needs to change.

Chairman Weisz: Ok committee let's take a quick look at it. See if there is anything else.

Representative Skroch: On page 5 line 3 where it says attempts to start a stopped heart, is there a more appropriate term for that?

Representative Porter: When we did this, they always try to use common language instead of medical terminology so it is easier to understand. So instead of putting cardiac arrest because there are varying degrees of cardiac arrest, they just wanted it to be if your heart stopped, this was it. If you were in a rhythm where your heart was beating 30 times a minute



and you weren't profusing adequately to be awake that they couldn't speed your heart rate up and wake you back up. It would be harder to put all of that into the document.

Chairman Weisz: It is designed for the nonmedical.

Representative Porter: The only place I can find is on page 8. On page 9 line 17 I would move we overstrike the word "physician" and insert "health care provider". That is the term they use throughout the document.

Chairman Weisz: We will have to add language on page 6 line 16.

Representative Seibel: I know that HB 1294 passed the senate today unanimously. That changes those terminologies to final disposition and I think burial and cremation means more to the layman. The only thing that I think we could add whole body donation? That is an option some people use. That is an option for there.

Chairman Weisz: Is everyone comfortable with that change?

Representative Skroch: Do they need to have a place to specify where they want to donate their body to?

Representative Seibel: There is only one place in ND

Representative Porter: I would move those two things

Representative Seibel: Seconded it

Chairman Weisz: Ok committee so everybody is clear. On page 6 line 16 it will add a whole body donation in addition to cremation and burial. Then on page 9 line 17 it will change physician to healthcare provider.

Chairman Weisz: Ok on the amendment. Any further discussion. Seeing none, we will take a voice vote.

Voice vote taken. Motion carried.

Chairman Weisz: Ok are there any further amendments on SB 2151?

Representative Porter: I move a do pass as amended.

Representative McWilliams: seconded.

Chairman Weisz: Any further discussion? Seeing none the clerk will call the roll for a do pass as amended on SB 2151.

Roll call vote taken    Yes    14    No    0    Absent    0

Chairman Weisz: Motion carried. Do I have a volunteer?



House Human Services Committee

SB 2151

*3/20/17*

Page 4

Chairman Weisz: Thank you Representative Porter.

Committee adjourned.

17.0665.02001  
Title.03000

Adopted by the Human Services Committee

March 20, 2017

3/20/17 DE

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2151

Page 6, line 16, after "burial" insert "whole body donation"

Page 9, line 17, overstrike "physician" and insert immediately thereafter "health care provider"

Renumber accordingly

Date: 3/20/17  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
 BILL/RESOLUTION NO. 3B 2151

House Human Services Committee

Subcommittee

Amendment LC# or Description: on page 6 line 16 add "whole body donation"  
page 9 line 17 change physician to "healthcare provider"

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Porter    Seconded By Rep. Seibel

| Representatives    | Yes | No | Representatives  | Yes | No |
|--------------------|-----|----|------------------|-----|----|
| Chairman Weisz     |     |    | Rep. P. Anderson |     |    |
| Vice Chairman Rohr |     |    | Rep. Schneider   |     |    |
| Rep. B. Anderson   |     |    |                  |     |    |
| Rep. D. Anderson   |     |    |                  |     |    |
| Rep. Damschen      |     |    |                  |     |    |
| Rep. Devlin        |     |    |                  |     |    |
| Rep. Kiefert       |     |    |                  |     |    |
| Rep. McWilliams    |     |    |                  |     |    |
| Rep. Porter        |     |    |                  |     |    |
| Rep. Seibel        |     |    |                  |     |    |
| Rep. Skroch        |     |    |                  |     |    |
| Rep. Westlind      |     |    |                  |     |    |

*VOICE VOTE ON AMENDMENT*  
*MOTION CARRIED*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: 3/30/17  
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2151

House Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Porter Seconded By Rep. McWilliams

| Representatives    | Yes | No | Representatives  | Yes | No |
|--------------------|-----|----|------------------|-----|----|
| Chairman Weisz     | ✓   |    | Rep. P. Anderson | ✓   |    |
| Vice Chairman Rohr | ✓   |    | Rep. Schneider   | ✓   |    |
| Rep. B. Anderson   | ✓   |    |                  |     |    |
| Rep. D. Anderson   | ✓   |    |                  |     |    |
| Rep. Damschen      | ✓   |    |                  |     |    |
| Rep. Devlin        | ✓   |    |                  |     |    |
| Rep. Kiefert       | ✓   |    |                  |     |    |
| Rep. McWilliams    | ✓   |    |                  |     |    |
| Rep. Porter        | ✓   |    |                  |     |    |
| Rep. Seibel        | ✓   |    |                  |     |    |
| Rep. Skroch        | ✓   |    |                  |     |    |
| Rep. Westlind      | ✓   |    |                  |     |    |
|                    |     |    |                  |     |    |
|                    |     |    |                  |     |    |

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Porter

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

**REPORT OF STANDING COMMITTEE**

**SB 2151, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2151 was placed on the Sixth order on the calendar.

Page 6, line 16, after "burial" insert "whole body donation"

Page 9, line 17, overstrike "physician" and insert immediately thereafter "health care provider"

Renumber accordingly



**2017 TESTIMONY**

**SB 2151**



TESTIMONY TO:

65<sup>TH</sup> NORTH DAKOTA LEGISLATIVE ASSEMBLY

JUDICIARY COMMITTEE:

Senate Bill 2151 1/23/2017

Chairman Armstrong and Committee Members:

I am Cheryl Rising, Family Nurse Practitioner (FNP) and Legislative Liaison for the North Dakota Nurse Practitioner Association (NDNPA). I am here to testify in support of Senate Bill 2151, A BILL for an Act to amend and reenact section 23-06.5-17 of the North Dakota Century Code, relating to health care directives.

Advance Practice Registered Nurses (APRN's) work throughout the state of ND. Addressing health care directives is part of our scope of practice. I review with all patients and family members the advance directives when I receive a new patient that I will assume primary provider of. I have witnessed personally in my career the importance of health care directives in making end of life decisions. NDNPA recommends that on page 5, line 28 and page 6, line 3 the word doctors be changed to health care provider. Health care provider is used in other areas of this bill.

That concludes my testimony. I entertain any questions.

Cheryl Rising, FNP

[crisingnp@gmail.com](mailto:crisingnp@gmail.com) 701-527-2583

Att. 1  
SB 2151  
3-15-17

SENATE BILL 2151  
HOUSE HUMAN SERVICES COMMITTEE  
CHAIRMAN ROBIN WEISZ  
MARCH 15, 2017  
GRANT H. SHAFT, REGISTER LOBBYIST #391

TESTIMONY OF GRANT H. SHAFT ON BEHALF OF  
REAL PROPERTY, PROBATE AND TRUST SECTION OF THE STATE BAR ASSOCIATION  
OF NORTH DAKOTA

Mr. Chairman and members of the Committee:

My name is Grant H. Shaft and I am the Chairman of the Real Property, Probate and Trust Section of the State Bar Association of North Dakota ("the Section). The Section is the largest within the Bar Association and is comprised of attorneys who concentrate their practices in the areas of real property, estate planning, probate and trust work. My testimony today, in support of Senate Bill 2151, is on behalf of the Section.

Senate Bill 2151 is a straight forward piece of legislation addressing an unintentional omission in the Health Care Directive form provided under Section 23-06.5-17 of the North Dakota Century Code. The form provided under this Section is used by most practicing attorneys in North Dakota and is a helpful tool in keeping uniformity in the use of health care directives in this state.

At our most recent meeting of the attorneys who concentrate their practices in estate planning, we discussed what appears to be an inadvertent omission in Part III of the Section (page 6 of the Bill before you) wherein the party executing the directive is given the option to be an organ donor. However, the current form does not provide an option to not be an organ donor. Thus, in the limited circumstances that a client chooses to not be an organ donor, attorneys have been using different methods to make this intention clear, including handwritten notes on the form and additional typed language. This practice goes against the original legislative intent of adopting a consistent format.

Senate Bill 2151 provides a new Section B under Part III allowing the party executing the directive to check a box declaring their intention to not be an organ donor, thus eliminating the need for attorneys to improvise additional language on the form.

During the Senate hearing, an amendment to Senate Bill 2151 was adopted on Pages 5 and 6, lines 28 and 4, respectively, replacing the word "doctor" with "health care provider". This amended was not requested by SBAND and therefore we take no position as to the amendment.

I urge your support of Senate Bill 2151. Thank you.

Grant H. Shaft  
Shaft Law Office  
P.O. Box 5495  
Grand Forks, ND 58206-5495  
(701)738-0124  
Email: grant@shaftlaw.com

Att. 2  
SB 2151  
3-15-17



TESTIMONY TO:

65<sup>TH</sup> NORTH DAKOTA LEGISLATIVE ASSEMBLY

HOUSE HUMAN SERVICES COMMITTEE:

Senate Bill 2151 3/15/2017

Chairman Weisz and Committee Members:

I am Cheryl Rising, Family Nurse Practitioner (FNP) and Legislative Liaison for the North Dakota Nurse Practitioner Association (NDNPA). I am here to testify in support of Senate Bill 2151, A BILL for an Act to amend and reenact section 23-06.5-17 of the North Dakota Century Code, relating to health care directives.

Advance Practice Registered Nurses (APRN's) work throughout the state of ND. Addressing health care directives is part of our scope of practice. I review with all patients and family members the advance directives when I receive a new a patient that I will assume care of. I have witnessed personally in my career the importance of health care directives in making end of life decisions. NDNPA supports the changes on page 5, line 28 and page 6, line 4 the change to health care provider.

That concludes my testimony. I entertain any questions.

Cheryl Rising, FNP

[crisingnp@gmail.com](mailto:crisingnp@gmail.com) 701-527-2583