

REFERENCE TITLE: end-of-life decisions; terminally ill patients

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2254

Introduced by
Representatives Powers Hannley: Andrade, Butler, Fernandez, Friese,
Salman, Stahl Hamilton, Terán, Senator Engel

AN ACT

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 33;
RELATING TO END-OF-LIFE DECISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, Arizona Revised Statutes, is amended by adding
3 chapter 33, to read:

4 CHAPTER 33

5 MEDICAL AID IN DYING

6 ARTICLE 1. GENERAL PROVISIONS

7 36-3301. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHTEEN YEARS OF
10 AGE.

11 2. "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS PRIMARY
12 RESPONSIBILITY FOR CARING FOR A PATIENT AND TREATING THE PATIENT'S
13 TERMINAL ILLNESS.

14 3. "CAPABLE" MEANS THAT, IN THE OPINION OF A COURT OR A PATIENT'S
15 ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST,
16 THE PATIENT IS ABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS TO
17 HEALTH CARE PROVIDERS.

18 4. "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY
19 SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS
20 REGARDING A PATIENT'S DISEASE.

21 5. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY
22 BETWEEN A STATE-LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A PATIENT TO
23 DETERMINE WHETHER THE PATIENT IS CAPABLE AND NOT SUFFERING FROM A
24 PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED
25 JUDGMENT.

26 6. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

27 7. "HEALTH CARE FACILITY":

28 (a) MEANS A HOSPITAL, MEDICAL CLINIC, NURSING HOME OR INPATIENT
29 HOSPICE FACILITY OR ANY OTHER LICENSED HEALTH CARE INSTITUTION WHERE THE
30 DELIVERY OF HEALTH CARE IS FACILITATED.

31 (b) DOES NOT INCLUDE A HEALTH CARE PROVIDER.

32 8. "HEALTH CARE PROVIDER":

33 (a) MEANS A PERSON WHO IS LICENSED, CERTIFIED OR OTHERWISE
34 AUTHORIZED OR ALLOWED BY THE LAWS OF THIS STATE TO ADMINISTER HEALTH CARE
35 OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A
36 PROFESSION.

37 (b) DOES NOT INCLUDE A HEALTH CARE FACILITY.

38 9. "INFORMED DECISION" MEANS A VOLUNTARY AFFIRMATIVE DECISION THAT
39 IS MADE BY A QUALIFIED PATIENT TO REQUEST AND OBTAIN A PRESCRIPTION FOR
40 MEDICATION, THAT IS BASED ON AN APPRECIATION OF THE RELEVANT FACTS AND
41 THAT IS MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE PATIENT OF
42 ALL OF THE FOLLOWING:

43 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

44 (b) THE PATIENT'S PROGNOSIS.

1 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
2 PRESCRIBED.

3 (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.

4 (e) FEASIBLE ALTERNATIVES TO TAKING THE MEDICATION, INCLUDING
5 COMFORT CARE, HOSPICE CARE AND PAIN CONTROL.

6 10. "MEDICALLY CONFIRM" MEANS THAT A CONSULTING PHYSICIAN WHO HAS
7 EXAMINED THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS CONFIRMS
8 THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.

9 11. "PHYSICIAN" MEANS AN INDIVIDUAL WHO IS LICENSED PURSUANT TO
10 TITLE 32, CHAPTER 13 OR 17.

11 12. "PRESCRIPTION FOR MEDICATION" MEANS A PRESCRIPTION THAT IS
12 WRITTEN BY AN ATTENDING PHYSICIAN FOR MEDICATION FOR A QUALIFIED PATIENT
13 TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH IN ACCORDANCE WITH THIS
14 ARTICLE.

15 13. "QUALIFIED PATIENT" MEANS A CAPABLE, TERMINALLY ILL ADULT WHO
16 IS A RESIDENT OF THIS STATE AND WHO HAS SATISFIED THE REQUIREMENTS OF THIS
17 ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICATION.

18 14. "SELF-ADMINISTER":

19 (a) MEANS AN AFFIRMATIVE, CONSCIOUS VOLUNTARY ACT BY A QUALIFIED
20 PATIENT TO INGEST THE PRESCRIPTION MEDICATION.

21 (b) DOES NOT INCLUDE THE ADMINISTRATION OF PRESCRIPTION MEDICATION
22 BY AN INJECTION OR INTRAVENOUS INFUSION.

23 15. "TERMINAL ILLNESS" OR "TERMINALLY ILL" MEANS AN INCURABLE
24 ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH
25 WITHIN SIX MONTHS.

26 36-3302. Prescription for medication; written request;
27 initiation

28 AN ADULT RESIDENT OF THIS STATE WHO IS CAPABLE, WHO THE ATTENDING
29 PHYSICIAN AND CONSULTING PHYSICIAN HAVE DETERMINED IS SUFFERING FROM A
30 TERMINAL ILLNESS AND WHO HAS VOLUNTARILY EXPRESSED A WISH TO DIE MAY MAKE
31 A WRITTEN REQUEST FOR A PRESCRIPTION FOR MEDICATION.

32 36-3303. Form of request; translation; witnesses; signatures

33 A. A VALID REQUEST FOR A PRESCRIPTION FOR MEDICATION MUST BE IN
34 SUBSTANTIALLY THE FORM DESCRIBED IN SECTION 36-3323, BE SIGNED AND DATED
35 BY THE QUALIFIED PATIENT AND BE WITNESSED BY AT LEAST TWO INDIVIDUALS WHO,
36 IN THE PRESENCE OF THE QUALIFIED PATIENT, ATTEST THAT TO THE BEST OF THEIR
37 KNOWLEDGE AND BELIEF THE QUALIFIED PATIENT IS CAPABLE, IS ACTING
38 VOLUNTARILY AND IS NOT BEING COERCED TO SIGN THE REQUEST. A PERSON WHO
39 DOES NOT SPEAK ENGLISH MAY HAVE THE WRITTEN REQUEST FORM TRANSLATED INTO
40 THE PERSON'S PRIMARY LANGUAGE FOR SIGNATURE.

41 B. ONE OF THE WITNESSES MUST BE AN INDIVIDUAL WHO IS NOT ANY OF THE
42 FOLLOWING:

43 1. A RELATIVE OF THE QUALIFIED PATIENT BY BLOOD, MARRIAGE OR
44 ADOPTION.

1 2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY PORTION OF
2 THE QUALIFIED PATIENT'S ESTATE ON THE QUALIFIED PATIENT'S DEATH UNDER ANY
3 WILL OR BY OPERATION OF LAW.

4 3. AT THE TIME THE REQUEST IS SIGNED, THE QUALIFIED PATIENT'S
5 ATTENDING PHYSICIAN.

6 36-3304. Attending physician; requirements

7 THE ATTENDING PHYSICIAN SHALL DO ALL OF THE FOLLOWING:

8 1. MAKE THE INITIAL DETERMINATION WHETHER A PATIENT HAS A TERMINAL
9 ILLNESS, IS CAPABLE AND HAS MADE THE REQUEST VOLUNTARILY.

10 2. REQUEST THE PATIENT TO DEMONSTRATE RESIDENCY IN THIS STATE
11 PURSUANT TO SECTION 36-3313.

12 3. ENSURE THAT THE PATIENT IS MAKING AN INFORMED DECISION BY
13 INFORMING THE PATIENT OF ALL OF THE FOLLOWING:

14 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

15 (b) THE PATIENT'S PROGNOSIS.

16 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
17 PRESCRIBED.

18 (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.

19 (e) FEASIBLE ALTERNATIVES AND CONCURRENT OR ADDITIONAL TREATMENT
20 OPPORTUNITIES FOR THE PATIENT'S TERMINAL ILLNESS, INCLUDING COMFORT CARE,
21 PALLIATIVE CARE, HOSPICE CARE AND PAIN CONTROL, AS WELL AS THE RISKS AND
22 BENEFITS OF EACH ALTERNATIVE.

23 (f) PROVIDE THE PATIENT WITH A REFERRAL FOR COMFORT CARE,
24 PALLIATIVE CARE, HOSPICE CARE, PAIN CONTROL OR OTHER END-OF-LIFE TREATMENT
25 OPPORTUNITIES AS REQUESTED OR AS CLINICALLY INDICATED.

26 (g) THE BENEFITS OF NOTIFYING THE PATIENT'S NEXT OF KIN.

27 (h) THE PATIENT'S RIGHT TO RESCIND THE REQUEST AT ANY POINT IN
28 TIME.

29 4. REFER THE PATIENT TO A CONSULTING PHYSICIAN TO MEDICALLY CONFIRM
30 THE DIAGNOSIS AND TO DETERMINE THAT THE PATIENT IS CAPABLE AND ACTING
31 VOLUNTARILY.

32 5. REFER THE PATIENT FOR COUNSELING IF APPROPRIATE PURSUANT TO
33 SECTION 36-3306.

34 6. COUNSEL THE PATIENT ABOUT THE IMPORTANCE OF ALL OF THE
35 FOLLOWING:

36 (a) SAFELY KEEPING AND DISPOSING OF ALL UNUSED PRESCRIPTION FOR
37 MEDICATION.

38 (b) THE RECOMMENDED METHODS OF SELF-ADMINISTERING THE MEDICATIONS
39 PRESCRIBED UNDER THIS ARTICLE.

40 (c) HAVING ANOTHER PERSON PRESENT WHEN THE PATIENT TAKES THE
41 MEDICATION.

42 (d) NOT TAKING THE MEDICATION IN A PUBLIC PLACE.

43 7. OFFER THE PATIENT AN OPPORTUNITY TO RESCIND AT THE END OF THE
44 FIFTEEN-DAY WAITING PERIOD PRESCRIBED IN SECTION 36-3311.

1 8. IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR MEDICATION,
2 VERIFY THAT THE PATIENT IS MAKING AN INFORMED DECISION.

3 9. EITHER:

4 (a) IF THE ATTENDING PHYSICIAN IS AUTHORIZED BY STATE AND FEDERAL
5 LAW TO DISPENSE THE MEDICATION, DISPENSE THE MEDICATION DIRECTLY,
6 INCLUDING ANY ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE PATIENT'S
7 DISCOMFORT.

8 (b) WITH THE PATIENT'S WRITTEN CONSENT, DO BOTH OF THE FOLLOWING:

9 (i) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE
10 PRESCRIPTION.

11 (ii) DELIVER THE WRITTEN PRESCRIPTION FOR MEDICATION PERSONALLY OR
12 BY OTHER MEANS TO THE PHARMACIST, WHO WILL DISPENSE THE MEDICATIONS TO
13 EITHER THE PATIENT, THE ATTENDING PHYSICIAN OR AN EXPRESSLY IDENTIFIED
14 AGENT OF THE PATIENT.

15 10. DOCUMENT THE PATIENT'S MEDICAL RECORD AS REQUIRED IN SECTION
16 36-3312.

17 11. ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE
18 WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICATION.

19 36-3305. Consulting physician: confirmation of diagnosis:
20 requirements

21 BEFORE A PATIENT IS DEEMED QUALIFIED UNDER THIS ARTICLE, A
22 CONSULTING PHYSICIAN SHALL EXAMINE THE PATIENT AND THE PATIENT'S RELEVANT
23 MEDICAL RECORDS, SHALL CONFIRM IN WRITING THE ATTENDING PHYSICIAN'S
24 DIAGNOSIS THAT THE PATIENT IS SUFFERING FROM A TERMINAL ILLNESS AND SHALL
25 VERIFY THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS MADE AN
26 INFORMED DECISION.

27 36-3306. Counseling referral: prohibition

28 IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES A
29 PATIENT MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR
30 DEPRESSION CAUSING IMPAIRED JUDGMENT, EITHER PHYSICIAN SHALL REFER THE
31 PATIENT FOR COUNSELING. THE ATTENDING PHYSICIAN MAY NOT WRITE A
32 PRESCRIPTION FOR MEDICATION UNTIL THE PERSON PERFORMING THE COUNSELING
33 DETERMINES THAT THE PATIENT IS NOT SUFFERING FROM A PSYCHIATRIC OR
34 PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT.

35 36-3307. Informed decision required; verification

36 THE ATTENDING PHYSICIAN MAY NOT WRITE A PRESCRIPTION FOR MEDICATION
37 UNLESS THE QUALIFIED PATIENT HAS MADE AN INFORMED DECISION. IMMEDIATELY
38 BEFORE WRITING A PRESCRIPTION FOR MEDICATION, THE ATTENDING PHYSICIAN
39 SHALL VERIFY THAT THE QUALIFIED PATIENT IS MAKING AN INFORMED DECISION.

40 36-3308. Family notification

41 THE ATTENDING PHYSICIAN SHALL RECOMMEND THAT THE QUALIFIED PATIENT
42 NOTIFY THE QUALIFIED PATIENT'S NEXT OF KIN REGARDING THE PATIENT'S REQUEST
43 FOR A PRESCRIPTION FOR MEDICATION. IF THE PATIENT DECLINES OR IS UNABLE
44 TO NOTIFY NEXT OF KIN, THE ATTENDING PHYSICIAN MAY NOT DENY THE QUALIFIED
45 PATIENT'S REQUEST FOR THAT REASON.

1 5. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING
2 COUNSELING, IF PERFORMED.

3 6. THE ATTENDING PHYSICIAN'S OFFER TO THE QUALIFIED PATIENT TO
4 RESCIND THE QUALIFIED PATIENT'S REQUEST AT THE TIME OF THE QUALIFIED
5 PATIENT'S SECOND ORAL REQUEST.

6 7. A NOTE FROM THE ATTENDING PHYSICIAN INDICATING THAT ALL
7 REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN MET AND INDICATING THE STEPS
8 TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF ANY MEDICATIONS
9 PRESCRIBED.

10 36-3313. Residency requirement

11 THE ATTENDING PHYSICIAN MAY GRANT A QUALIFIED PATIENT'S REQUEST
12 UNDER THIS ARTICLE ONLY IF THE PATIENT IS A RESIDENT OF THIS STATE.
13 ARIZONA RESIDENCY IS ESTABLISHED IF THE PATIENT MEETS ANY OF THE
14 FOLLOWING:

- 15 1. POSSESSES AN ARIZONA DRIVER LICENSE.
- 16 2. POSSESSES AN ARIZONA NONOPERATING IDENTIFICATION LICENSE.
- 17 3. REGISTERS TO VOTE IN THIS STATE.
- 18 4. OWNS OR LEASES PROPERTY IN THIS STATE.
- 19 5. FILES AN ARIZONA STATE TAX RETURN FOR THE MOST RECENT TAXABLE
20 YEAR.
- 21 6. PROVIDES OTHER MEANS OF DEMONSTRATING RESIDENCY ACCEPTABLE TO
22 THE ATTENDING PHYSICIAN.

23 36-3314. Annual records review; reporting requirements;
24 confidentiality; rules; annual report

25 A. THE DEPARTMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS
26 MAINTAINED PURSUANT TO THIS ARTICLE.

27 B. THE DEPARTMENT SHALL REQUIRE A HEALTH CARE PROVIDER, WITHIN
28 THIRTY DAYS AFTER DISPENSING A PRESCRIPTION FOR MEDICATION PURSUANT TO
29 THIS ARTICLE, TO FILE A COPY OF THE DISPENSING RECORD WITH THE DEPARTMENT.

30 C. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF
31 INFORMATION REGARDING COMPLIANCE WITH THIS ARTICLE. EXCEPT AS OTHERWISE
32 REQUIRED BY LAW, THE INFORMATION COLLECTED IS NOT A PUBLIC RECORD AND IS
33 NOT AVAILABLE FOR INSPECTION BY THE PUBLIC.

34 D. THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC
35 AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS SECTION.

36 36-3315. Effect on construction of contracts, wills or
37 agreements

38 A. A PROVISION IN A CONTRACT, WILL OR OTHER AGREEMENT, WHETHER
39 WRITTEN OR ORAL, IS INVALID TO THE EXTENT THAT THE PROVISION WOULD AFFECT
40 WHETHER A PERSON MAY MAKE OR RESCIND A REQUEST FOR A PRESCRIPTION FOR
41 MEDICATION.

42 B. AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MAY
43 NOT BE CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST
44 BY A PERSON FOR A PRESCRIPTION FOR MEDICATION.

1 36-3316. Insurance or annuity policies
 2 THE SALE, PROCUREMENT OR ISSUANCE OR DELIVERY OF BENEFITS UNDER A
 3 LIFE, HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY OR THE RATE CHARGED
 4 FOR A POLICY MAY NOT BE CONDITIONED ON OR AFFECTED BY THE AVAILABILITY OF
 5 MEDICATION PURSUANT TO THIS ARTICLE OR ON A QUALIFIED PATIENT MAKING OR
 6 RESCINDING A REQUEST FOR A PRESCRIPTION FOR MEDICATION. A QUALIFIED
 7 PATIENT'S ACT OF INGESTING MEDICATION TO END THE PATIENT'S LIFE IN A
 8 HUMANE AND DIGNIFIED MANNER DOES NOT AFFECT A LIFE, HEALTH OR ACCIDENT
 9 INSURANCE OR ANNUITY POLICY ISSUED OR DELIVERED IN THIS STATE.

10 36-3317. Construction of article
 11 THIS ARTICLE DOES NOT AUTHORIZE A PHYSICIAN OR ANY OTHER PERSON TO
 12 END A PATIENT'S LIFE BY LETHAL INJECTION OR SUBCUTANEOUS INFUSIONS, MERCY
 13 KILLING OR ACTIVE EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS
 14 ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE,
 15 MERCY KILLING, ELDER ABUSE OR HOMICIDE UNDER THE LAW.

16 36-3318. Health care facilities; transfer; coordination;
 17 duties
 18 IF A QUALIFIED PATIENT WISHES TO TRANSFER TO A DIFFERENT HEALTH CARE
 19 FACILITY TO RECEIVE CARE, THE NONPARTICIPATING HEALTH CARE FACILITY SHALL
 20 COORDINATE THE TRANSFER IN A TIMELY MANNER, INCLUDING THE TRANSFER OF THE
 21 PATIENT'S MEDICAL RECORDS, INCLUDING A NOTATION OF THE DATE THAT THE
 22 PATIENT FIRST REQUESTED A PRESCRIPTION FOR MEDICATION.

23 36-3319. Immunities; prohibiting a health care provider from
 24 participation; permissible sanctions; definitions

25 A. EXCEPT AS PROVIDED IN SECTION 36-3321:
 26 1. A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY IS NOT SUBJECT TO
 27 CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION, INCLUDING
 28 CENSURE, SUSPENSION, LOSS OF LICENSE, LOSS OF MEDICAL PRIVILEGES, LOSS OF
 29 MEMBERSHIP OR ANY OTHER PENALTY, FOR ENGAGING IN THE PRACTICE OF MEDICAL
 30 AID IN DYING IN ACCORDANCE WITH THE STANDARD OF CARE AND IN GOOD FAITH
 31 COMPLIANCE WITH THIS ARTICLE.

32 2. A HEALTH CARE PROVIDER, HEALTH CARE FACILITY OR PROFESSIONAL
 33 ORGANIZATION OR ASSOCIATION MAY NOT SUBJECT A HEALTH CARE PROVIDER TO
 34 CENSURE, DISCIPLINE, SUSPENSION, LOSS OF LICENSE, LOSS OF PRIVILEGES, LOSS
 35 OF MEMBERSHIP OR ANY OTHER PENALTY FOR PROVIDING MEDICAL AID IN DYING IN
 36 ACCORDANCE WITH THE STANDARD OF CARE AND IN GOOD FAITH PURSUANT TO THIS
 37 ARTICLE OR FOR PROVIDING SCIENTIFIC AND ACCURATE INFORMATION ABOUT MEDICAL
 38 AID IN DYING TO AN INDIVIDUAL WHEN DISCUSSING END-OF-LIFE CARE OPTIONS.

39 3. A HEALTH CARE PROVIDER IS NOT SUBJECT TO CIVIL OR CRIMINAL
 40 LIABILITY OR PROFESSIONAL DISCIPLINE IF, WITH THE CONSENT OF THE QUALIFIED
 41 PATIENT, THE HEALTH CARE PROVIDER IS PRESENT WHEN THE QUALIFIED PATIENT
 42 SELF-ADMINISTERS MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE OR AT THE
 43 TIME OF THE QUALIFIED PATIENT'S DEATH.

44 4. A REQUEST BY A QUALIFIED PATIENT FOR OR PROVISION BY AN
 45 ATTENDING PHYSICIAN OF A PRESCRIPTION FOR MEDICATION IN GOOD FAITH

1 COMPLIANCE WITH THIS ARTICLE DOES NOT CONSTITUTE NEGLIGENCE FOR ANY PURPOSE
2 OF LAW OR PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR
3 CONSERVATOR.

4 5. A HEALTH CARE PROVIDER IS NOT UNDER ANY DUTY, WHETHER BY
5 CONTRACT, STATUTE OR ANY OTHER LEGAL REQUIREMENT, TO PARTICIPATE IN
6 PROVIDING A QUALIFIED PATIENT PRESCRIBED MEDICATION TO END THE QUALIFIED
7 PATIENT'S LIFE. IF A HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO CARRY
8 OUT A QUALIFIED PATIENT'S REQUEST UNDER THIS ARTICLE AND THE QUALIFIED
9 PATIENT TRANSFERS THE QUALIFIED PATIENT'S CARE TO A NEW HEALTH CARE
10 PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, ON REQUEST, A
11 COPY OF THE QUALIFIED PATIENT'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH
12 CARE PROVIDER.

13 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH CARE
14 PROVIDER MAY PROHIBIT ANOTHER HEALTH CARE PROVIDER FROM PARTICIPATING IN
15 ACTIVITIES COVERED BY THIS ARTICLE ON THE PREMISES OF THE PROHIBITING
16 PROVIDER IF THE PROHIBITING PROVIDER HAS NOTIFIED THE HEALTH CARE PROVIDER
17 OF THE PROHIBITING PROVIDER'S POLICY REGARDING PARTICIPATING IN ACTIVITIES
18 COVERED BY THIS ARTICLE. THIS PARAGRAPH DOES NOT PREVENT A HEALTH CARE
19 PROVIDER FROM PROVIDING A QUALIFIED PATIENT WITH HEALTH CARE SERVICES THAT
20 DO NOT CONSTITUTE PARTICIPATION IN ACTIVITIES COVERED BY THIS ARTICLE.

21 7. NOTWITHSTANDING PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION, A
22 HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE PROVIDER TO ANY OF
23 THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE PROVIDER HAS
24 NOTIFIED THE SANCTIONED HEALTH CARE PROVIDER BEFORE PARTICIPATING IN
25 ACTIVITIES COVERED BY THIS ARTICLE THAT THE ACTIONS ARE PROHIBITED:

26 (a) LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER SANCTION
27 PROVIDED PURSUANT TO THE MEDICAL STAFF BYLAWS, POLICIES AND PROCEDURES OF
28 THE SANCTIONING HEALTH CARE PROVIDER IF THE SANCTIONED HEALTH CARE
29 PROVIDER IS A MEMBER OF THE SANCTIONING HEALTH CARE PROVIDER'S MEDICAL
30 STAFF AND PARTICIPATES IN ACTIVITIES COVERED BY THIS ARTICLE WHILE ON THE
31 HEALTH CARE FACILITY PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER, BUT
32 NOT INCLUDING THE PRIVATE MEDICAL OFFICE OF A PHYSICIAN OR OTHER PROVIDER.

33 (b) TERMINATION OF LEASE OR OTHER PROPERTY CONTRACT OR OTHER
34 NONMONETARY REMEDIES PROVIDED BY A LEASE CONTRACT, NOT INCLUDING LOSS OR
35 RESTRICTION OF MEDICAL STAFF PRIVILEGES OR EXCLUSION FROM A PROVIDER
36 PANEL, IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN ACTIVITIES
37 COVERED BY THIS ARTICLE WHILE ON THE PREMISES OF THE SANCTIONING HEALTH
38 CARE PROVIDER OR ON PROPERTY THAT IS OWNED BY OR UNDER THE DIRECT CONTROL
39 OF THE SANCTIONING HEALTH CARE PROVIDER.

40 (c) TERMINATION OF CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED
41 BY CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN
42 ACTIVITIES COVERED BY THIS ARTICLE WHILE ACTING IN THE COURSE AND SCOPE OF
43 THE SANCTIONED HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR
44 INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER. THIS
45 SUBDIVISION DOES NOT PREVENT EITHER OF THE FOLLOWING:

1 (i) A HEALTH CARE PROVIDER FROM PARTICIPATING IN ACTIVITIES COVERED
2 BY THIS ARTICLE WHILE ACTING OUTSIDE THE COURSE AND SCOPE OF THE
3 PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR.

4 (ii) A QUALIFIED PATIENT FROM CONTRACTING WITH THE QUALIFIED
5 PATIENT'S ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE THE
6 COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR
7 INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

8 8. A HEALTH CARE PROVIDER THAT IMPOSES SANCTIONS PURSUANT TO
9 PARAGRAPH 7 OF THIS SUBSECTION MUST FOLLOW ALL DUE PROCESS AND OTHER
10 PROCEDURES THE SANCTIONING HEALTH CARE PROVIDER MAY HAVE THAT ARE RELATED
11 TO IMPOSING SANCTIONS ON ANOTHER HEALTH CARE PROVIDER.

12 9. ACTION TAKEN PURSUANT TO SECTION 36-3303, 36-3304, 36-3305 OR
13 36-3306 MAY NOT BE THE SOLE BASIS FOR A REPORT OF UNPROFESSIONAL CONDUCT
14 UNDER TITLE 32, CHAPTER 13 OR 17.

15 B. FOR THE PURPOSES OF THIS SECTION:

16 1. "NOTIFY" MEANS THAT A SANCTIONING HEALTH CARE PROVIDER
17 SPECIFICALLY INFORMS A HEALTH CARE PROVIDER IN A SEPARATE STATEMENT IN
18 WRITING OF THE SANCTIONING HEALTH CARE PROVIDER'S POLICY ABOUT
19 PARTICIPATING IN ACTIVITIES COVERED BY THIS ARTICLE BEFORE THE HEALTH CARE
20 PROVIDER PARTICIPATES IN ACTIVITIES COVERED BY THIS ARTICLE.

21 2. "PARTICIPATE IN ACTIVITIES COVERED BY THIS ARTICLE":

22 (a) MEANS TO PERFORM THE DUTIES OF AN ATTENDING PHYSICIAN PURSUANT
23 TO SECTION 36-3304 OR A CONSULTING PHYSICIAN PURSUANT TO SECTION 36-3305
24 OR THE COUNSELING FUNCTION PURSUANT TO SECTION 36-3306.

25 (b) DOES NOT INCLUDE MAKING AN INITIAL DETERMINATION THAT A PATIENT
26 HAS A TERMINAL DISEASE AND INFORMING THE PATIENT OF THE MEDICAL PROGNOSIS,
27 PROVIDING INFORMATION ABOUT THIS ARTICLE TO A PATIENT ON THE PATIENT'S
28 REQUEST OR PROVIDING A PATIENT, ON THE PATIENT'S REQUEST, WITH A REFERRAL
29 TO ANOTHER PHYSICIAN OR A PATIENT CONTRACTING WITH THE PATIENT'S ATTENDING
30 PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE OF THE COURSE AND SCOPE
31 OF THE HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT
32 CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

33 36-3320. Death certificates

34 A. UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR
35 THE DIRECTOR OF THE HEALTH CARE FACILITY SHALL SIGN THE DEATH CERTIFICATE
36 OF A QUALIFIED PATIENT WHO OBTAINED AND SELF-ADMINISTERED A PRESCRIPTION
37 FOR MEDICATION PURSUANT TO THIS ARTICLE.

38 B. WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE:

39 1. THE MANNER OF DEATH MAY NOT BE LISTED AS SUICIDE OR HOMICIDE.

40 2. THE CAUSE OF DEATH MUST BE LISTED AS THE UNDERLYING TERMINAL
41 ILLNESS. A QUALIFIED PATIENT'S ACT OF SELF-ADMINISTERING MEDICATION
42 PRESCRIBED PURSUANT TO THIS ARTICLE MAY NOT BE INCLUDED ON THE DEATH
43 CERTIFICATE.

44 3. THIS ALONE DOES NOT CONSTITUTE GROUNDS FOR AN INVESTIGATION BY
45 THE COUNTY MEDICAL EXAMINER. A PRELIMINARY INVESTIGATION MAY BE CONDUCTED

1 TO DETERMINE WHETHER THE PERSON RECEIVED A PRESCRIPTION FOR MEDICATION
2 UNDER THIS ARTICLE. ANY POSTMORTEM INQUIRY OR INVESTIGATION CONDUCTED BY
3 THE COUNTY MEDICAL EXAMINER RELATING TO DEATHS THAT OCCUR PURSUANT TO THIS
4 ARTICLE DOES NOT REQUIRE THE COUNTY MEDICAL EXAMINER TO SIGN THE DEATH
5 CERTIFICATE IF THE ATTENDING PHYSICIAN THAT PRESCRIBED THE MEDICATION IS
6 IDENTIFIED.

7 36-3321. Violations; classification; liability

8 A. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT THE
9 PATIENT'S AUTHORIZATION, WILFULLY ALTERS OR FORGES A REQUEST FOR A
10 PRESCRIPTION FOR MEDICATION OR CONCEALS OR DESTROYS A RESCISSION OF THAT
11 REQUEST WITH THE INTENT OR EFFECT OF CAUSING THE PATIENT'S DEATH.

12 B. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO COERCES OR EXERTS
13 UNDUE INFLUENCE ON A PATIENT WITH A TERMINAL ILLNESS TO REQUEST A
14 PRESCRIPTION FOR MEDICATION PURSUANT TO THIS ARTICLE WITH THE INTENT OR
15 EFFECT OF CAUSING THE PATIENT'S DEATH.

16 C. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT
17 AUTHORIZATION OF THE PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR
18 DESTROYS AN INSTRUMENT, THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT
19 OR ANY OTHER EVIDENCE OR DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND
20 INTERESTS, WITH THE INTENT AND EFFECT OF CAUSING A WITHHOLDING OR
21 WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES OR ARTIFICIALLY ADMINISTERED
22 NUTRITION AND HYDRATION THAT HASTENS THE DEATH OF THE PRINCIPAL.

23 D. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A PERSON IS
24 GUILTY OF A CLASS 1 MISDEMEANOR WHO, WITHOUT AUTHORIZATION OF THE
25 PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR DESTROYS AN INSTRUMENT,
26 THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT OR ANY OTHER EVIDENCE OR
27 DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND INTERESTS WITH THE INTENT
28 OR EFFECT OF AFFECTING A HEALTH CARE DECISION OF THE PRINCIPAL.

29 E. A PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR WHO COERCES OR
30 EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL WITH A TERMINAL ILLNESS TO FORGO
31 REQUESTING OR OBTAINING A PRESCRIPTION FOR MEDICATION PURSUANT TO THIS
32 ARTICLE AS AN END-OF-LIFE CARE OPTION.

33 F. THIS ARTICLE DOES NOT LIMIT FURTHER LIABILITY FOR CIVIL DAMAGES
34 RESULTING FROM OTHER NEGLIGENT CONDUCT OR INTENTIONAL MISCONDUCT BY ANY
35 PERSON.

36 G. THE PENALTIES IN THIS ARTICLE DO NOT PRECLUDE CRIMINAL PENALTIES
37 APPLICABLE UNDER OTHER LAW FOR CONDUCT THAT IS INCONSISTENT WITH THIS
38 ARTICLE.

39 36-3322. Claims by governmental entity; costs

40 A GOVERNMENTAL ENTITY THAT INCURS COSTS RESULTING FROM A QUALIFIED
41 PATIENT TERMINATING THE QUALIFIED PATIENT'S LIFE PURSUANT TO THIS ARTICLE
42 IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE QUALIFIED PATIENT
43 TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE
44 CLAIM.

1 36-3323. Prescription for medication; form of request

2 A REQUEST FOR A PRESCRIPTION FOR MEDICATION AS AUTHORIZED BY THIS
3 ARTICLE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

4 REQUEST FOR A PRESCRIPTION FOR MEDICATION TO
5 END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

6 I, _____, AM AN ADULT OF SOUND MIND.

7 I AM SUFFERING FROM _____, WHICH MY ATTENDING
8 PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS.

9 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
10 PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND THE
11 FEASIBLE ALTERNATIVES AND CONCURRENT OR ADDITIONAL TREATMENT
12 OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE,
13 HOSPICE CARE AND PAIN CONTROL.

14 I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE
15 MEDICATION THAT WILL END MY LIFE IN A HUMANE AND DIGNIFIED
16 MANNER, SHOULD I DECIDE TO SELF-ADMINISTER IT.

17 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I
18 EXPECT TO DIE WHEN I TAKE THE MEDICATION TO BE PRESCRIBED. I
19 FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN
20 THREE HOURS, MY DEATH MAY TAKE LONGER AND MY ATTENDING
21 PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY.

22 I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION.

23 SIGNED: _____

24 DATED: _____

25 DECLARATION OF WITNESSES

26 WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

- 27 1. IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF
- 28 IDENTITY.
- 29 2. SIGNED THIS REQUEST IN OUR PRESENCE.
- 30 3. APPEARS TO BE OF SOUND MIND AND TO NOT BE UNDER
- 31 DURESS, FRAUD OR UNDUE INFLUENCE.
- 32 4. IS NOT A PATIENT FOR WHOM EITHER OF US IS THE
- 33 ATTENDING PHYSICIAN.

34 WITNESS 1: _____ DATED: _____

35 WITNESS 2: _____ DATED: _____

36 NOTE: ONE WITNESS CANNOT BE A RELATIVE (BY BLOOD,
37 MARRIAGE OR ADOPTION) OF THE QUALIFIED PATIENT SIGNING THIS
38 REQUEST AND CANNOT BE ENTITLED TO ANY PORTION OF THE QUALIFIED
39 PATIENT'S ESTATE ON DEATH.

40 Sec. 2. Severability

41 If a provision of this act or its application to any person or
42 circumstance is held invalid, the invalidity does not affect other
43 provisions or applications of the act that can be given effect without the
44 invalid provision or application, and to this end the provisions of this
45 act are severable.