SB 1193

Introduced by
Senators Mendez: Dalessandro, Rios; Representatives Rodriguez, Salman

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)
Be it enacted by the Legislature of the State of Arizona:
Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 33, to read:

CHAPTER 33
DEATH WITH DIGNITY
ARTICLE 1. GENERAL PROVISIONS

36-3301. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHTEEN YEARS OF AGE.
2. "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF A PATIENT AND TREATMENT OF THE PATIENT'S TERMINAL DISEASE.
3. "CAPABLE" MEANS THAT, IN THE OPINION OF A COURT OR A PATIENT'S ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE PATIENT IS ABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS TO HEALTH CARE PROVIDERS, INCLUDING COMMUNICATING THROUGH PERSONS WHO ARE FAMILIAR WITH THE PATIENT'S MANNER OF COMMUNICATING IF THOSE PERSONS ARE AVAILABLE.
4. "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A PATIENT'S DISEASE.
5. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY BETWEEN A STATE-LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A PATIENT TO DETERMINE WHETHER THE PATIENT IS CAPABLE AND NOT SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT.
6. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.
7. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED OR OTHERWISE AUTHORIZED OR ALLOWED BY THE LAWS OF THIS STATE TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION, AND INCLUDES A HEALTH CARE FACILITY.
8. "INFORMED DECISION" MEANS A DECISION THAT IS MADE BY A QUALIFIED PATIENT TO REQUEST AND OBTAIN A PRESCRIPTION FOR MEDICATION, THAT IS BASED ON AN APPRECIATION OF THE RELEVANT FACTS AND THAT IS MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE PATIENT OF ALL OF THE FOLLOWING:
   (a) THE PATIENT'S MEDICAL DIAGNOSIS.
   (b) THE PATIENT'S PROGNOSIS.
   (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE PRESCRIBED.
   (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.
   (e) FEASIBLE ALTERNATIVES TO TAKING THE MEDICATION, INCLUDING COMFORT CARE, HOSPICE CARE AND PAIN CONTROL.
9. "MEDICALLY CONFIRM" MEANS THAT A CONSULTING PHYSICIAN WHO HAS
EXAMINED THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS CONFIRMS
THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.
10. "PATIENT" MEANS A PERSON WHO IS UNDER THE CARE OF A PHYSICIAN.
11. "PHYSICIAN" MEANS AN INDIVIDUAL WHO IS LICENSED PURSUANT TO
TITLE 32, CHAPTER 13 OR 17.
12. "PRESCRIPTION FOR MEDICATION" MEANS A PRESCRIPTION THAT IS
WRITTEN BY AN ATTENDING PHYSICIAN FOR MEDICATION TO END A PATIENT'S LIFE
IN A HUMANE AND DIGNIFIED MANNER IN ACCORDANCE WITH THIS ARTICLE.
13. "QUALIFIED PATIENT" MEANS A CAPABLE ADULT WHO IS A RESIDENT OF
THIS STATE AND WHO HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER
TO OBTAIN A PRESCRIPTION FOR MEDICATION.
14. "TERMINAL DISEASE" MEANS AN INCURABLE AND IRREVERSIBLE DISEASE
THAT HAS BEEN MEDICALLY CONFIRMED AND THAT WILL RESULT IN DEATH, WITH
REASONABLE MEDICAL JUDGMENT, WITHIN SIX MONTHS.
36-3302. Written request for a prescription for medication;
initiation; language interpreter
A. AN ADULT WHO IS CAPABLE, WHO IS A RESIDENT OF THIS STATE, WHOM
THE ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN HAVE DETERMINED IS
SUFFERING FROM A TERMINAL DISEASE AND WHO HAS VOLUNTARILY EXPRESSED A WISH
TO DIE MAY MAKE A WRITTEN REQUEST FOR A PRESCRIPTION FOR MEDICATION.
B. A PERSON DOES NOT QUALIFY UNDER THIS ARTICLE SOLELY BECAUSE OF
AGE OR DISABILITY.
C. A PERSON WHO DOES NOT SPEAK ENGLISH MAY USE A LANGUAGE
INTERPRETER TO INITIATE THE PROCESS UNDER THIS ARTICLE AND TO MAKE ANY
ORAL REQUESTS REQUIRED BY THIS ARTICLE.
36-3303. Form of request; translation; witnesses; signatures
A. A VALID REQUEST FOR A PRESCRIPTION FOR MEDICATION MUST BE IN
SUBSTANTIALLY THE FORM DESCRIBED IN SECTION 36-3321, BE SIGNED AND DATED
BY THE PATIENT AND BE WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE
PRESENCE OF THE PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND
BELIEF THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND IS NOT BEING
COERCED TO SIGN THE REQUEST. A PERSON WHO DOES NOT SPEAK ENGLISH MAY HAVE
THE WRITTEN REQUEST FORM TRANSLATED INTO THE PERSON'S PRIMARY LANGUAGE FOR
SIGNATURE.
B. ONE OF THE WITNESSES MUST BE AN INDIVIDUAL WHO IS NOT ANY OF THE
FOLLOWING:
1. A RELATIVE OF THE PATIENT BY BLOOD, MARRIAGE OR ADOPTION.
2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY PORTION OF
THE QUALIFIED PATIENT'S ESTATE ON THE PATIENT'S DEATH UNDER ANY WILL OR BY
OPERATION OF LAW.
3. AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE
THE QUALIFIED PATIENT RESIDES OR IS RECEIVING MEDICAL TREATMENT.
4. At the time the request is signed, the patient's attending physician.

C. If the patient resides in or is receiving medical treatment in a long-term care facility at the time the written request is made, one of the witnesses must be an individual who is designated by the facility and who has the qualifications specified by the department in rule.

36-3304. Attending physician; requirements; death certificate

A. The attending physician shall do all of the following:

1. Make the initial determination whether a patient has a terminal disease, is capable and has made the request voluntarily.

2. Request the patient to demonstrate residency in this state pursuant to section 36-3313.

3. Ensure that the patient is making an informed decision by informing the patient of all of the following:

   (a) The patient's medical diagnosis.

   (b) The patient's prognosis.

   (c) The potential risks associated with taking the medication to be prescribed.

   (d) The probable result of taking the medication to be prescribed.

   (e) Feasible alternatives to taking the medication, including comfort care, hospice care and pain control.

4. Refer the patient to a consulting physician to medically confirm the diagnosis and to determine that the patient is capable and acting voluntarily.

5. Refer the patient for counseling if appropriate pursuant to section 36-3306.

6. Recommend that the patient notify the patient's next of kin.

7. Counsel the patient about the importance of having another person present when the patient takes the medication and of not taking the medication in a public place.

8. Inform the patient that the patient may rescind the request at any time and in any manner and offer the patient an opportunity to rescind at the end of the fifteen-day waiting period pursuant to section 36-3309.

9. Immediately before writing the prescription for medication, verify that the patient is making an informed decision.

10. Document the medical records requirements of section 36-3312.

11. Ensure that all appropriate steps are carried out in accordance with this article before writing a prescription for medication.

12. Either:

   (a) If the attending physician is authorized by state and federal law to dispense the medication, dispense the medication directly, including any ancillary medications intended to minimize the patient's discomfort.
(b) WITH THE PATIENT'S WRITTEN CONSENT, DO BOTH OF THE FOLLOWING:

(i) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE

(ii) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY OR BY OTHER MEANS

TO THE PHARMACIST, WHO WILL DISPENSE THE MEDICATIONS TO EITHER THE

PATIENT, THE ATTENDING PHYSICIAN OR AN EXPRESSLY IDENTIFIED AGENT OF THE

PATIENT.

13. ALLOW ANYONE THE PATIENT Chooses TO BE PRESENT WHEN THE PATIENT

TAKES THE MEDICATION.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTENDING

PHYSICIAN MAY SIGN THE PATIENT'S DEATH CERTIFICATE AND SHALL LIST THE

PATIENT'S TERMINAL ILLNESS AS THE CAUSE OF DEATH.

36-3305. Consulting physician; confirmation of diagnosis

BEFORE A PATIENT IS DEEMED QUALIFIED UNDER THIS ARTICLE, A

CONSULTING PHYSICIAN SHALL EXAMINE THE PATIENT AND THE PATIENT'S RELEVANT

MEDICAL RECORDS, SHALL CONFIRM IN WRITING THE ATTENDING PHYSICIAN'S

DIAGNOSIS THAT THE PATIENT IS SUFFERING FROM A TERMINAL DISEASE AND SHALL

VERIFY THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS MADE AN

INFORMED DECISION.

36-3306. Counseling referral; prohibition

IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES A

PATIENT MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR

DEPRESSION CAUSING IMPAIRED JUDGMENT, EITHER PHYSICIAN SHALL REFER THE

PATIENT FOR COUNSELING. THE ATTENDING PHYSICIAN MAY NOT WRITE A

PRESCRIPTION FOR MEDICATION UNTIL THE PERSON PERFORMING THE COUNSELING

DETERMINES THAT THE PATIENT IS NOT SUFFERING FROM A PSYCHIATRIC OR

PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT.

36-3307. Informed decision required; verification

THE ATTENDING PHYSICIAN MAY NOT WRITE A PRESCRIPTION FOR MEDICATION

UNLESS THE PATIENT HAS MADE AN INFORMED DECISION. IMMEDIATELY BEFORE

WRITING A PRESCRIPTION FOR MEDICATION, THE ATTENDING PHYSICIAN SHALL

VERIFY THAT THE PATIENT IS MAKING AN INFORMED DECISION.

36-3308. Family notification

THE ATTENDING PHYSICIAN SHALL RECOMMEND THAT THE PATIENT NOTIFY THE

PATIENT'S NEXT OF KIN REGARDING THE PATIENT'S REQUEST FOR A PRESCRIPTION

FOR MEDICATION. IF THE PATIENT DECLINES OR IS UNABLE TO NOTIFY NEXT OF

KIN, THE ATTENDING PHYSICIAN MAY NOT DENY THE PATIENT'S REQUEST FOR THAT

REASON.

36-3309. Written and oral requests; opportunity to rescind

IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICATION, A QUALIFIED

PATIENT MUST MAKE AN ORAL REQUEST AND A WRITTEN REQUEST TO THE PATIENT'S

ATTENDING PHYSICIAN AND MUST MAKE A SECOND ORAL REQUEST AT LEAST FIFTEEN

DAYS AFTER MAKING THE INITIAL ORAL REQUEST. WHEN THE QUALIFIED PATIENT

MAKES THE SECOND ORAL REQUEST, THE ATTENDING PHYSICIAN SHALL OFFER THE

PATIENT AN OPPORTUNITY TO RESCIND THE REQUEST.
36-3310. Right to rescind request; disposal of unused medication
   A. A patient may rescind a request at any time and in any manner without regard to the patient's mental state. The attending physician may not write a prescription for medication without offering the qualified patient an opportunity to rescind the request.
   B. If the attending physician writes a prescription for medication and the patient decides not to use the medication to end the patient's life, the patient shall dispose of any unused medication using a United States Drug Enforcement Administration authorized collector.

36-3311. Waiting periods
   At least fifteen days must elapse between the patient's initial oral request and the writing of a prescription for medication.

36-3312. Medical records; documentation; requirements
   All of the following shall be documented or filed in the patient's medical record:
   1. All oral requests by a patient for a prescription for medication.
   2. All written requests by a patient for a prescription for medication.
   3. The attending physician's diagnosis and prognosis and determination that the patient is capable, is acting voluntarily and has made an informed decision.
   4. The consulting physician's diagnosis and prognosis and verification that the patient is capable, is acting voluntarily and has made an informed decision.
   5. A report of the outcome and determinations made during counseling, if performed.
   6. The attending physician's offer to the patient to rescind the patient's request at the time of the patient's second oral request pursuant to section 36-3309.

36-3313. Residency requirement
   The attending physician may grant a patient's request under this article only if the patient is a resident of this state. Arizona residency is established if the patient does any of the following:
   1. Possesses an Arizona driver license.
   2. Registers to vote in this state.
   3. Owns or leases property in this state.
   4. Files an Arizona state tax return for the most recent tax year.
36-3314. Reporting requirements; confidentiality; rules; report

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

B. THE DEPARTMENT SHALL REQUIRE A HEALTH CARE PROVIDER, ON DISPENSING MEDICATION PURSUANT TO THIS ARTICLE, TO FILE A COPY OF THE DISPENSING RECORD WITH THE DEPARTMENT.

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

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

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

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

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

36-3316. Insurance or annuity policies

THE SALE, PROCUREMENT OR ISSUANCE OF A LIFE, HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY OR THE RATE CHARGED FOR A POLICY MAY NOT BE CONDITIONED ON OR AFFECTED BY A PATIENT MAKING OR RESCINDING A REQUEST FOR A PRESCRIPTION FOR MEDICATION. A QUALIFIED PATIENT’S ACT OF INGESTING MEDICATION TO END THE PATIENT’S LIFE IN A HUMANHE AND DIGNIFIED MANNER DOES NOT AFFECT A LIFE, HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY ISSUED OR DELIVERED IN THIS STATE.

36-3317. Construction of article

THIS ARTICLE DOES NOT AUTHORIZE A PHYSICIAN OR ANY OTHER PERSON TO END A PATIENT’S LIFE BY LETHAL INJECTION, MERCY KILLING OR ACTIVE EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING OR HOMICIDE UNDER THE LAW.

36-3318. Immunities; prohibiting a health care provider from participation; permissible sanctions; definitions

A. EXCEPT AS PROVIDED IN SECTION 36-3319:

1. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD FAITH COMPLIANCE WITH ACTIVITIES COVERED BY THIS ARTICLE, INCLUDING BEING PRESENT WHEN A QUALIFIED PATIENT TAKES THE PRESCRIBED MEDICATION TO END THE PATIENT’S LIFE IN A HUMAN AND DIGNIFIED MANNER.
2. A PROFESSIONAL ORGANIZATION OR ASSOCIATION OR A HEALTH CARE PROVIDER MAY NOT SUBJECT A PERSON TO CENSURE, DISCIPLINE, SUSPENSION, LOSS OF LICENSE, LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER PENALTY FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD FAITH COMPLIANCE WITH ACTIVITIES COVERED BY THIS ARTICLE.

3. A REQUEST BY A PATIENT FOR OR PROVISION BY AN ATTENDING PHYSICIAN OF MEDICATION IN GOOD FAITH COMPLIANCE WITH THIS ARTICLE DOES NOT CONSTITUTE NEGLECT FOR ANY PURPOSE OF LAW OR PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

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

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

6. NOTWITHSTANDING PARAGRAPHS 1, 2, 3 AND 4 OF THIS SUBSECTION, A HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE PROVIDER TO ANY OF THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE PROVIDER HAS NOTIFIED THE SANCTIONED HEALTH CARE PROVIDER BEFORE PARTICIPATING IN ACTIVITIES COVERED BY THIS ARTICLE THAT THE ACTIONS ARE PROHIBITED:

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

(b) TERMINATION OF LEASE OR OTHER PROPERTY CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED BY A LEASE CONTRACT, NOT INCLUDING LOSS OR RESTRICTION OF MEDICAL STAFF PRIVILEGES OR EXCLUSION FROM A PROVIDER PANEL, IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN ACTIVITIES COVERED BY THIS ARTICLE WHILE ON THE PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER OR ON PROPERTY THAT IS OWNED BY OR UNDER THE DIRECT CONTROL OF THE SANCTIONING HEALTH CARE PROVIDER.
(c) TERMINATION OF CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED
BY CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN
ACTIVITIES COVERED BY THIS ARTICLE WHILE ACTING IN THE COURSE AND SCOPE OF
THE SANCTIONED HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR
INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER. THIS
PARAGRAPH DOES NOT PREVENT EITHER OF THE FOLLOWING:
(i) A HEALTH CARE PROVIDER FROM PARTICIPATING IN ACTIVITIES COVERED
BY THIS ARTICLE WHILE ACTING OUTSIDE THE COURSE AND SCOPE OF THE
PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR.
(ii) A PATIENT FROM CONTRACTING WITH THE PATIENT'S ATTENDING
PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE THE COURSE AND SCOPE OF
THE HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT
CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.
7. A HEALTH CARE PROVIDER THAT IMPOSES SANCTIONS PURSUANT TO
PARAGRAPH 6 OF THIS SUBSECTION MUST FOLLOW ALL DUE PROCESS AND OTHER
PROCEDURES THE SANCTIONING HEALTH CARE PROVIDER MAY HAVE THAT ARE RELATED
TO IMPOSING SANCTIONS ON ANOTHER HEALTH CARE PROVIDER.
8. ACTION TAKEN PURSUANT TO SECTION 36-3303, 36-3304, 36-3305 OR
36-3306 MAY NOT BE THE SOLE BASIS FOR A REPORT OF UNPROFESSIONAL CONDUCT
UNDER TITLE 32, CHAPTER 13 OR 17.
9. THIS ARTICLE DOES NOT ALLOW A LOWER STANDARD OF CARE FOR
PATIENTS IN THE COMMUNITY WHERE THE PATIENT IS TREATED OR A SIMILAR
COMMUNITY.
B. FOR THE PURPOSES OF THIS SECTION:
1. "NOTIFY" MEANS THAT A SANCTIONING HEALTH CARE PROVIDER
SPECIFICALLY INFORMS A HEALTH CARE PROVIDER IN A SEPARATE STATEMENT IN
WRITING OF THE SANCTIONING HEALTH CARE PROVIDER'S POLICY ABOUT
PARTICIPATION IN ACTIVITIES COVERED BY THIS ARTICLE BEFORE THE HEALTH CARE
PROVIDER PARTICIPATES IN ACTIVITIES COVERED BY THIS ARTICLE.
2. "PARTICIPATE IN ACTIVITIES COVERED BY THIS ARTICLE":
(a) MEANS TO PERFORM THE DUTIES OF AN ATTENDING PHYSICIAN PURSUANT
TO SECTION 36-3304 OR A CONSULTING PHYSICIAN PURSUANT TO SECTION 36-3305
OR THE COUNSELING FUNCTION PURSUANT TO SECTION 36-3306.
(b) DOES NOT INCLUDE MAKING AN INITIAL DETERMINATION THAT A PATIENT
HAS A TERMINAL DISEASE AND INFORMING THE PATIENT OF THE MEDICAL PROGNOSIS,
PROVIDING INFORMATION ABOUT THIS ARTICLE TO A PATIENT ON THE PATIENT'S
REQUEST OR PROVIDING A PATIENT, ON THE PATIENT'S REQUEST, WITH A REFERRAL
TO ANOTHER PHYSICIAN OR A PATIENT CONTRACTING WITH THE PATIENT'S ATTENDING
PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE OF THE COURSE AND SCOPE
OF THE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE
SANCTIONING HEALTH CARE PROVIDER.
36-3319. Violations; classification; liability

A. A person is guilty of a class 2 felony who, without the patient's authorization, wilfully alters or forges a request for a prescription for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death.

B. A person is guilty of a class 2 felony who coerces or exerts undue influence on a patient to request a prescription for medication to end the patient's life or to destroy a rescission of such a request.

C. A person is guilty of a class 2 felony who, without authorization of the principal, wilfully alters, forges, conceals or destroys an instrument, the reinstatement or revocation of an instrument or any other evidence or document reflecting the principal's desires and interests, with the intent and effect of causing a withholding or withdrawal of life-sustaining procedures or artificially administered nutrition and hydration that hastens the death of the principal.

D. Except as provided in subsection C of this section, a person is guilty of a class 1 misdemeanor who, without authorization of the principal, wilfully alters, forges, conceals or destroys an instrument, the reinstatement or revocation of an instrument or any other evidence or document reflecting the principal's desires and interests with the intent or effect of affecting a health care decision of the principal.

E. This article does not limit further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

F. The penalties in this article do not preclude criminal penalties applicable under other law for conduct that is inconsistent with this article.

36-3320. Claims by governmental entity; costs

A governmental entity that incurs costs resulting from a person terminating the person's life pursuant to this article in a public place has a claim against the estate of the person to recover the costs and reasonable attorney fees related to enforcing the claim.

36-3321. Form of request

A request for a prescription for medication as authorized by this article may be translated into a patient's primary language if the patient does not speak English and shall be in substantially the following form:

REQUEST FOR A PRESCRIPTION FOR MEDICATION

TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I, ________________, AM AN ADULT OF SOUND MIND.

I AM SUFFERING FROM ________, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL DISEASE AND WHICH A CONSULTING PHYSICIAN HAS MEDICALLY CONFIRMED.
I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT AND THE FEASIBLE ALTERNATIVES, INCLUDING COMFORT CARE, HOSPICE CARE AND PAIN CONTROL.

I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICATION THAT WILL END MY LIFE IN A HUMANE AND DIGNIFIED MANNER.

INITIAL ONE:

_____ I HAVE INFORMED MY FAMILY MEMBERS OF MY DECISION AND TAKEN THEIR OPINIONS INTO CONSIDERATION.

_____ I HAVE DECIDED NOT TO INFORM MY FAMILY MEMBERS OF MY DECISION.

_____ I HAVE NO FAMILY MEMBERS TO INFORM OF MY DECISION.

I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME.

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

I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION, AND I ACCEPT FULL MORAL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: ____________________
DATED: _____________________

DECLARATION OF WITNESSES

WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

1. IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY.

2. SIGNED THIS REQUEST IN OUR PRESENCE.

3. APPEARS TO BE OF SOUND MIND AND TO NOT BE UNDER DURESS, FRAUD OR UNDUE INFLUENCE.

4. IS NOT A PATIENT FOR WHOM EITHER OF US IS THE ATTENDING PHYSICIAN.

_______ WITNESS 1/DATE __________
_______ WITNESS 2/DATE __________

NOTE: ONE WITNESS CANNOT BE A RELATIVE (BY BLOOD, MARRIAGE OR ADOPTION) OF THE PERSON SIGNING THIS REQUEST, CANNOT BE ENTITLED TO ANY PORTION OF THE PERSON’S ESTATE ON DEATH AND CANNOT OWN, OPERATE OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE PERSON RESIDES OR IS A PATIENT. IF THE PATIENT IS AN INPATIENT AT A HEALTH CARE FACILITY, ONE WITNESS MUST BE AN INDIVIDUAL DESIGNATED BY THE FACILITY.
Sec. 2. **Severability**

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

Sec. 3. **Short title**

This act may be cited as the "Death with Dignity Act".