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

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1384

Introduced by
Senators Mendez: Quezada, Rios; Representatives Friese, Salman, Terán

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

MEDICAL AID IN DYING

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 CARING FOR A PATIENT AND TREATING THE PATIENT'S TERMINAL ILLNESS.

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.

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 FACILITY":
   (a) MEANS A HOSPITAL, MEDICAL CLINIC, NURSING HOME OR INPATIENT HOSPICE FACILITY OR ANY OTHER LICENSED HEALTH CARE INSTITUTION WHERE THE DELIVERY OF HEALTH CARE IS FACILITATED.
   (b) DOES NOT INCLUDE A HEALTH CARE PROVIDER.

8. "HEALTH CARE PROVIDER":
   (a) 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.
   (b) DOES NOT INCLUDE A HEALTH CARE FACILITY.

9. "INFORMED DECISION" MEANS A VOLUNTARY AFFIRMATIVE 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.


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 FOR A QUALIFIED PATIENT TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH IN ACCORDANCE WITH THIS ARTICLE.

13. "QUALIFIED PATIENT" MEANS A CAPABLE, TERMINALLY ILL 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. "SELF-ADMINISTER":
(a) MEANS AN AFFIRMATIVE, CONSCIOUS VOLUNTARY ACT BY A QUALIFIED PATIENT TO INGEST THE PRESCRIPTION MEDICATION.
(b) DOES NOT INCLUDE THE ADMINISTRATION OF PRESCRIPTION MEDICATION BY AN INJECTION OR INTRAVENOUS INFUSION.

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

36-3302. Prescription for medication; written request; initiation
AN ADULT RESIDENT OF THIS STATE WHO IS CAPABLE, WHO THE ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN HAVE DETERMINED IS SUFFERING FROM A TERMINAL ILLNESS AND WHO HAS VOLUNTARILY EXPRESSED A WISH TO DIE MAY MAKE A WRITTEN REQUEST FOR A PRESCRIPTION FOR MEDICATION.

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 36-3323, BE SIGNED AND DATED BY THE QUALIFIED PATIENT AND BE WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE QUALIFIED PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THE QUALIFIED 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 QUALIFIED 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 qualified patient's death under any will or by operation of law.

3. At the time the request is signed, the qualified patient's attending physician.

36-3304. Attending physician; requirements

The attending physician shall do all of the following:

1. Make the initial determination whether a patient has a terminal illness, 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 and concurrent or additional treatment opportunities for the patient's terminal illness, including comfort care, palliative care, hospice care and pain control, as well as the risks and benefits of each alternative.
   (f) Provide the patient with a referral for comfort care, palliative care, hospice care, pain control or other end-of-life treatment opportunities as requested or as clinically indicated.
   (g) The benefits of notifying the patient's next of kin.
   (h) The patient's right to rescind the request at any point in time.

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. Counsel the patient about the importance of all of the following:
   (a) Safely keeping and disposing of all unused prescription for medication.
   (b) The recommended methods of self-administering the medications prescribed under this article.
   (c) Having another person present when the patient takes the medication.
   (d) Not taking the medication in a public place.

7. Offer the patient an opportunity to rescind at the end of the fifteen-day waiting period prescribed in section 36-3311.
8. IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR MEDICATION, VERIFY THAT THE PATIENT IS MAKING AN INFORMED DECISION.

9. 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 PRESCRIPTION.
       (ii) DELIVER THE WRITTEN PRESCRIPTION FOR MEDICATION 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.

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

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

36-3305. Consulting physician; confirmation of diagnosis; requirements

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 ILLNESS 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 QUALIFIED PATIENT HAS MADE AN INFORMED DECISION. IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR MEDICATION, THE ATTENDING PHYSICIAN SHALL VERIFY THAT THE QUALIFIED PATIENT IS MAKING AN INFORMED DECISION.

36-3308. Family notification

THE ATTENDING PHYSICIAN SHALL RECOMMEND THAT THE QUALIFIED PATIENT NOTIFY THE QUALIFIED 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 QUALIFIED PATIENT'S REQUEST FOR THAT REASON.
36-3309. Use of interpreters

An interpreter whose services are provided to a patient requesting information on care under this article shall meet the standards adopted by Arizona Translators and Interpreters or the National Council on Interpreting in Health Care or other standards deemed acceptable by the Department for Health Care Providers in this state. An interpreter who is used for the purposes of this article may not be related to the qualified patient by blood, marriage, registered domestic partnership or adoption or be entitled to a portion of the patient's estate on death.

36-3310. Right to rescind request; disposal of unused medication

A. A qualified patient may rescind a request at any time and in any manner without regard to the qualified 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 qualified patient decides not to use the medication to end the qualified patient's life, the qualified patient shall dispose of any unused medication using a United States Drug Enforcement Administration authorized collector.

36-3311. Waiting period; waiver

A. At least fifteen days must elapse between the qualified patient's initial oral request and the writing of a prescription for medication.

B. Notwithstanding subsection A of this section, if the attending physician attests that the qualified patient will, within reasonable medical judgment, die within the fifteen days after making the initial oral request, the qualified patient may reiterate the oral request to the attending physician and submit the written request at any time after making the initial oral request, and the fifteen-day waiting period will be waived.

36-3312. Medical records; documentation; requirements

All of the following shall be documented or filed in the qualified patient's medical record:

1. All oral requests by a qualified patient for a prescription for medication.

2. All written requests by a qualified patient for a prescription for medication.

3. The attending physician's diagnosis and prognosis and determination that the qualified patient is capable, is acting voluntarily and has made an informed decision.

4. The consulting physician's diagnosis and prognosis and verification that the qualified 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 QUALIFIED PATIENT TO RESCIND THE QUALIFIED PATIENT'S REQUEST AT THE TIME OF THE QUALIFIED PATIENT'S SECOND ORAL REQUEST.

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

36-3313. Residency requirement

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

1. POSSESSES AN ARIZONA DRIVER LICENSE.
2. POSSESSES AN ARIZONA NONOPERATING IDENTIFICATION LICENSE.
3. REGISTERS TO VOTE IN THIS STATE.
4. OWNS OR LEASES PROPERTY IN THIS STATE.
5. FILES AN ARIZONA STATE TAX RETURN FOR THE MOST RECENT TAXABLE YEAR.

6. PROVIDES OTHER MEANS OF DEMONSTRATING RESIDENCY ACCEPTABLE TO THE ATTENDING PHYSICIAN.

36-3314. Reporting requirements; confidentiality; rules; annual 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, WITHIN THIRTY DAYS AFTER DISPENSING A PRESCRIPTION FOR 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 or delivery of benefits under a life, health or accident insurance or annuity policy or the rate charged for a policy may not be conditioned on or affected by the availability of medication pursuant to this article or on a qualified 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 humane 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 or subcutaneous infusions, mercy killing or active euthanasia. Actions taken in accordance with this article do not, for any purpose, constitute suicide, assisted suicide, mercy killing, elder abuse or homicide under the law.

36-3318. **Health care facilities; transfer; coordination; duties**

If a qualified patient wishes to transfer to a different health care facility to receive care, the nonparticipating health care facility shall coordinate the transfer in a timely manner, including the transfer of the patient's medical records, including a notation of the date that the patient first requested a prescription for medication.

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

A. Except as provided in section 36-3321:

1. A health care provider or health care facility is not subject to civil or criminal liability or professional disciplinary action, including censure, suspension, loss of license, loss of medical privileges, loss of membership or any other penalty, for engaging in the practice of medical aid in dying in accordance with the standard of care and in good faith compliance with this article.

2. A health care provider, health care facility or professional organization or association may not subject a health care provider to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or any other penalty for providing medical aid in dying in accordance with the standard of care and in good faith pursuant to this article or for providing scientific and accurate information about medical aid in dying to an individual when discussing end-of-life care options.

3. A health care provider is not subject to civil or criminal liability or professional discipline if, with the consent of the qualified patient, the health care provider is present when the qualified patient self-administers medication prescribed pursuant to this article or at the time of the qualified patient's death.

4. A request by a qualified patient for or provision by an attending physician of a prescription for 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.

5. 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 QUALIFIED PATIENT'S LIFE. IF A HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT A QUALIFIED PATIENT'S REQUEST UNDER THIS ARTICLE AND THE QUALIFIED PATIENT TRANSFERS THE QUALIFIED PATIENT'S CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, ON REQUEST, A COPY OF THE QUALIFIED PATIENT'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

6. 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 QUALIFIED PATIENT WITH HEALTH CARE SERVICES THAT DO NOT CONSTITUTE PARTICIPATION IN ACTIVITIES COVERED BY THIS ARTICLE.

7. NOTWITHSTANDING PARAGRAPHS 1, 2 AND 3 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 SUBDIVISION 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 QUALIFIED PATIENT FROM CONTRACTING WITH THE QUALIFIED
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.

8. A HEALTH CARE PROVIDER THAT IMPOSES SANCTIONS PURSUANT TO
PARAGRAPH 7 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.

9. 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.

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
PARTICIPATING 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 HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT
CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

36-3320. Death certificates

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

B. WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE:
1. THE MANNER OF DEATH MAY NOT BE LISTED AS SUICIDE OR HOMICIDE.
2. THE CAUSE OF DEATH MUST BE LISTED AS THE UNDERLYING TERMINAL
ILLNESS. A QUALIFIED PATIENT'S ACT OF SELF-ADMINISTERING MEDICATION
PRESCRIBED PURSUANT TO THIS ARTICLE MAY NOT BE INCLUDED ON THE DEATH
CERTIFICATE.

3. THIS ALONE DOES NOT CONSTITUTE GROUNDS FOR AN INVESTIGATION BY
THE COUNTY MEDICAL EXAMINER. A PRELIMINARY INVESTIGATION MAY BE CONDUCTED
TO DETERMINE WHETHER THE PERSON RECEIVED A PRESCRIPTION FOR MEDICATION UNDER THIS ARTICLE. ANY POSTMORTEM INQUIRY OR INVESTIGATION CONDUCTED BY THE COUNTY MEDICAL EXAMINER RELATING TO DEATHS THAT OCCUR PURSUANT TO THIS ARTICLE DOES NOT REQUIRE THE COUNTY MEDICAL EXAMINER TO SIGN THE DEATH CERTIFICATE IF THE ATTENDING PHYSICIAN THAT PRESCRIBED THE MEDICATION IS IDENTIFIED.

36-3321. 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 WITH A TERMINAL ILLNESS TO REQUEST A PRESCRIPTION FOR MEDICATION PURSUANT TO THIS ARTICLE WITH THE INTENT OR EFFECT OFCAUSING THE PATIENT'S DEATH.

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

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

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

36-3322. Claims by governmental entity; costs

A GOVERNMENTAL ENTITY THAT INCURS COSTS RESULTING FROM A QUALIFIED PATIENT TERMINATING THE QUALIFIED PATIENT'S LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE QUALIFIED PATIENT TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.
36-3323. Prescription for medication; form of request

A REQUEST FOR A PRESCRIPTION FOR MEDICATION AS AUTHORIZED BY THIS ARTICLE 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 ILLNESS.

I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND THE FEASIBLE ALTERNATIVES AND CONCURRENT OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE 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, SHOULD I DECIDE TO SELF-ADMINISTER IT.

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 ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY.

I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION.

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 QUALIFIED PATIENT SIGNING THIS REQUEST AND CANNOT BE ENTITLED TO ANY PORTION OF THE QUALIFIED PATIENT'S ESTATE ON DEATH.

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.