

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 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.