

REFERENCE TITLE: terminally ill; care choices

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1512

Introduced by
Senators Mendez: Bradley, Peshlakai; Representatives Andrade, Blanc,
Engel, Powers Hannley, 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)

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 DEATH WITH DIGNITY

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 THE CARE OF THE PATIENT AND TREATMENT OF THE PATIENT'S
13 TERMINAL DISEASE.

14 3. "CAPABLE" MEANS THAT IN THE OPINION OF A COURT OR IN THE OPINION
15 OF A PATIENT'S ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN, PSYCHIATRIST
16 OR PSYCHOLOGIST, THE PATIENT HAS THE ABILITY TO MAKE AND COMMUNICATE
17 HEALTH CARE DECISIONS TO HEALTH CARE PROVIDERS, INCLUDING COMMUNICATION
18 THROUGH PERSONS FAMILIAR WITH THE PATIENT'S MANNER OF COMMUNICATING IF
19 THOSE PERSONS ARE AVAILABLE.

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

23 5. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY
24 BETWEEN A STATE-LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A PATIENT FOR
25 THE PURPOSE OF DETERMINING THAT THE PATIENT IS CAPABLE AND NOT SUFFERING
26 FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING
27 IMPAIRED JUDGMENT.

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

29 7. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED
30 OR OTHERWISE AUTHORIZED OR PERMITTED BY THE LAWS OF THIS STATE TO
31 ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF
32 BUSINESS OR PRACTICE OF A PROFESSION, AND INCLUDES A HEALTH CARE FACILITY.

33 8. "INFORMED DECISION" MEANS A DECISION BY A QUALIFIED PATIENT TO
34 REQUEST AND OBTAIN A PRESCRIPTION TO END THE PATIENT'S LIFE IN A HUMANE
35 AND DIGNIFIED MANNER THAT IS BASED ON AN APPRECIATION OF THE RELEVANT
36 FACTS AND THAT IS MADE AFTER BEING FULLY INFORMED BY THE ATTENDING
37 PHYSICIAN OF ALL OF THE FOLLOWING:

38 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

39 (b) THE PATIENT'S PROGNOSIS.

40 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
41 PRESCRIBED.

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

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

1 9. "MEDICALLY CONFIRMED" MEANS THAT THE MEDICAL OPINION OF THE
2 ATTENDING PHYSICIAN HAS BEEN CONFIRMED BY A CONSULTING PHYSICIAN WHO HAS
3 EXAMINED THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS.

4 10. "PATIENT" MEANS A PERSON WHO IS UNDER THE CARE OF A PHYSICIAN.

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

7 12. "QUALIFIED PATIENT" MEANS A CAPABLE ADULT WHO IS A RESIDENT OF
8 THIS STATE AND WHO HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER
9 TO OBTAIN A PRESCRIPTION FOR MEDICATION TO END THE PATIENT'S LIFE IN A
10 HUMANE AND DIGNIFIED MANNER.

11 13. "TERMINAL DISEASE" MEANS AN INCURABLE AND IRREVERSIBLE DISEASE
12 THAT HAS BEEN MEDICALLY CONFIRMED AND THAT WILL PRODUCE DEATH, WITH
13 REASONABLE MEDICAL JUDGMENT, WITHIN SIX MONTHS.

14 36-3302. Written request for medication; initiation; language
15 interpreter

16 A. AN ADULT WHO IS CAPABLE, IS A RESIDENT OF THIS STATE AND HAS
17 BEEN DETERMINED BY THE ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO BE
18 SUFFERING FROM A TERMINAL DISEASE, AND WHO HAS VOLUNTARILY EXPRESSED A
19 WISH TO DIE, MAY MAKE A WRITTEN REQUEST FOR MEDICATION FOR THE PURPOSE OF
20 ENDING THE PERSON'S LIFE IN A HUMANE AND DIGNIFIED MANNER IN ACCORDANCE
21 WITH THIS ARTICLE.

22 B. A PERSON DOES NOT QUALIFY UNDER THIS ARTICLE SOLELY BECAUSE OF
23 AGE OR DISABILITY.

24 C. A PERSON WHO DOES NOT SPEAK ENGLISH MAY USE A LANGUAGE
25 INTERPRETER TO INITIATE THE PROCESS UNDER THIS ARTICLE AND TO MAKE ANY
26 ORAL REQUESTS REQUIRED BY THIS ARTICLE.

27 36-3303. Form of request; translation; witnesses; signatures

28 A. A VALID REQUEST FOR MEDICATION UNDER THIS ARTICLE SHALL BE IN
29 SUBSTANTIALLY THE FORM DESCRIBED IN SECTION 36-3321, BE SIGNED AND DATED
30 BY THE PATIENT AND BE WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE
31 PRESENCE OF THE PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND
32 BELIEF THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND IS NOT BEING
33 COERCED TO SIGN THE REQUEST. A PERSON WHO DOES NOT SPEAK ENGLISH MAY HAVE
34 THE WRITTEN REQUEST FORM TRANSLATED INTO THE PERSON'S PRIMARY LANGUAGE FOR
35 SIGNATURE.

36 B. ONE OF THE WITNESSES SHALL BE A PERSON WHO IS NOT ANY OF THE
37 FOLLOWING:

38 1. A RELATIVE OF THE PATIENT BY BLOOD, MARRIAGE OR ADOPTION.

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

42 3. AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE
43 THE QUALIFIED PATIENT IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

44 C. THE PATIENT'S ATTENDING PHYSICIAN AT THE TIME THE REQUEST IS
45 SIGNED MAY NOT BE A WITNESS.

1 D. IF THE PATIENT IS A PATIENT IN A LONG-TERM CARE FACILITY AT THE
2 TIME THE WRITTEN REQUEST IS MADE, ONE OF THE WITNESSES SHALL BE AN
3 INDIVIDUAL WHO IS DESIGNATED BY THE FACILITY AND WHO HAS THE
4 QUALIFICATIONS SPECIFIED BY THE DEPARTMENT IN RULE.

5 36-3304. Attending physician; requirements

6 A. THE ATTENDING PHYSICIAN SHALL DO ALL OF THE FOLLOWING:

7 1. MAKE THE INITIAL DETERMINATION OF WHETHER A PATIENT HAS A
8 TERMINAL DISEASE, IS CAPABLE AND HAS MADE THE REQUEST VOLUNTARILY.

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

11 3. TO ENSURE THAT THE PATIENT IS MAKING AN INFORMED DECISION,
12 INFORM THE PATIENT OF ALL OF THE FOLLOWING:

13 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

14 (b) THE PATIENT'S PROGNOSIS.

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

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

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

20 4. REFER THE PATIENT TO A CONSULTING PHYSICIAN FOR MEDICAL
21 CONFIRMATION OF THE DIAGNOSIS AND FOR A DETERMINATION THAT THE PATIENT IS
22 CAPABLE AND ACTING VOLUNTARILY.

23 5. REFER THE PATIENT FOR COUNSELING IF APPROPRIATE PURSUANT TO
24 SECTION 36-3306.

25 6. RECOMMEND THAT THE PATIENT NOTIFY THE PATIENT'S NEXT OF KIN.

26 7. COUNSEL THE PATIENT ABOUT THE IMPORTANCE OF HAVING ANOTHER
27 PERSON PRESENT WHEN THE PATIENT TAKES THE MEDICATION PRESCRIBED PURSUANT
28 TO THIS ARTICLE AND OF NOT TAKING THE MEDICATION IN A PUBLIC PLACE.

29 8. INFORM THE PATIENT THAT THE PATIENT CAN RESCIND THE REQUEST AT
30 ANY TIME AND IN ANY MANNER AND OFFER THE PATIENT AN OPPORTUNITY TO RESCIND
31 AT THE END OF THE FIFTEEN-DAY WAITING PERIOD PURSUANT TO SECTION 36-3309.

32 9. VERIFY, IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR
33 MEDICATION UNDER THIS ARTICLE, THAT THE PATIENT IS MAKING AN INFORMED
34 DECISION.

35 10. FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENTS OF
36 SECTION 36-3312.

37 11. ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE
38 WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICATION TO ENABLE A
39 QUALIFIED PATIENT TO END THE PATIENT'S LIFE IN A HUMANE AND DIGNIFIED
40 MANNER.

41 12. EITHER:

42 (a) IF THE ATTENDING PHYSICIAN IS AUTHORIZED BY STATE AND FEDERAL
43 LAW TO DISPENSE THE MEDICATION, DISPENSE MEDICATIONS DIRECTLY, INCLUDING
44 ANCILLARY MEDICATIONS INTENDED TO FACILITATE THE DESIRED EFFECT TO
45 MINIMIZE THE PATIENT'S DISCOMFORT.

1 (b) WITH THE PATIENT'S WRITTEN CONSENT, DO BOTH OF THE FOLLOWING:
2 (i) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE
3 PRESCRIPTION.

4 (ii) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY OR BY OTHER MEANS
5 TO THE PHARMACIST, WHO WILL DISPENSE THE MEDICATIONS TO EITHER THE
6 PATIENT, THE ATTENDING PHYSICIAN OR AN EXPRESSLY IDENTIFIED AGENT OF THE
7 PATIENT.

8 13. ALLOW THE PATIENT TO BE ACCOMPANIED BY ANYONE THE PATIENT
9 CHOOSES.

10 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTENDING
11 PHYSICIAN MAY SIGN THE PATIENT'S DEATH CERTIFICATE.

12 36-3305. Consulting physician confirmation of diagnosis

13 BEFORE A PATIENT IS DEEMED QUALIFIED UNDER THIS ARTICLE, A
14 CONSULTING PHYSICIAN SHALL EXAMINE THE PATIENT AND THE PATIENT'S RELEVANT
15 MEDICAL RECORDS, SHALL CONFIRM IN WRITING THE ATTENDING PHYSICIAN'S
16 DIAGNOSIS THAT THE PATIENT IS SUFFERING FROM A TERMINAL DISEASE AND SHALL
17 VERIFY THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS MADE AN
18 INFORMED DECISION.

19 36-3306. Counseling referral; prohibition

20 IF, IN THE OPINION OF THE ATTENDING PHYSICIAN OR THE CONSULTING
21 PHYSICIAN, A PATIENT MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL
22 DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT, EITHER PHYSICIAN SHALL
23 REFER THE PATIENT FOR COUNSELING. MEDICATION TO END A PATIENT'S LIFE IN A
24 HUMANE AND DIGNIFIED MANNER MAY NOT BE PRESCRIBED UNTIL THE PERSON
25 PERFORMING THE COUNSELING DETERMINES THAT THE PATIENT IS NOT SUFFERING
26 FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING
27 IMPAIRED JUDGMENT.

28 36-3307. Informed decision

29 A PERSON MAY NOT RECEIVE A PRESCRIPTION FOR MEDICATION TO END THE
30 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER UNLESS THE PERSON HAS MADE
31 AN INFORMED DECISION. IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR
32 MEDICATION UNDER THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL VERIFY THAT
33 THE PATIENT IS MAKING AN INFORMED DECISION.

34 36-3308. Family notification

35 THE ATTENDING PHYSICIAN SHALL RECOMMEND THAT THE PATIENT NOTIFY THE
36 PATIENT'S NEXT OF KIN OF THE PATIENT'S REQUEST FOR MEDICATION PURSUANT TO
37 THIS ARTICLE. A PATIENT WHO DECLINES OR IS UNABLE TO NOTIFY NEXT OF KIN
38 MAY NOT HAVE THE PATIENT'S REQUEST DENIED FOR THAT REASON.

39 36-3309. Written and oral requests

40 IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICATION TO END THE
41 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER, A QUALIFIED PATIENT MUST
42 HAVE MADE AN ORAL REQUEST AND A WRITTEN REQUEST, AND REITERATE THE ORAL
43 REQUEST TO THE PATIENT'S ATTENDING PHYSICIAN AT LEAST FIFTEEN DAYS AFTER
44 MAKING THE INITIAL ORAL REQUEST. AT THE TIME THE QUALIFIED PATIENT MAKES

1 THE SECOND ORAL REQUEST, THE ATTENDING PHYSICIAN SHALL OFFER THE PATIENT
2 AN OPPORTUNITY TO RESCIND THE REQUEST.

3 36-3310. Right to rescind request

4 A PATIENT MAY RESCIND A REQUEST AT ANY TIME AND IN ANY MANNER
5 WITHOUT REGARD TO THE PATIENT'S MENTAL STATE. A PRESCRIPTION FOR
6 MEDICATION UNDER THIS ARTICLE MAY NOT BE WRITTEN WITHOUT THE ATTENDING
7 PHYSICIAN OFFERING THE QUALIFIED PATIENT AN OPPORTUNITY TO RESCIND THE
8 REQUEST.

9 36-3311. Waiting periods; disposal of unused medication

10 A. AT LEAST FIFTEEN DAYS SHALL ELAPSE BETWEEN THE PATIENT'S INITIAL
11 ORAL REQUEST AND THE WRITING OF A PRESCRIPTION UNDER THIS ARTICLE.

12 B. IF A PRESCRIPTION IS WRITTEN UNDER THIS ARTICLE AND THE PATIENT
13 DECIDES NOT TO USE THE MEDICATION TO END THE PATIENT'S LIFE, THE PATIENT
14 SHALL DISPOSE OF THE MEDICATION USING A UNITED STATES DRUG ENFORCEMENT
15 AGENCY AUTHORIZED COLLECTOR.

16 36-3312. Medical records; documentation; requirements

17 ALL OF THE FOLLOWING SHALL BE DOCUMENTED OR FILED IN THE PATIENT'S
18 MEDICAL RECORD:

19 1. ALL ORAL REQUESTS BY A PATIENT FOR MEDICATION TO END THE
20 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER.

21 2. ALL WRITTEN REQUESTS BY A PATIENT FOR MEDICATION TO END THE
22 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER.

23 3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
24 DETERMINATION THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS
25 MADE AN INFORMED DECISION.

26 4. THE CONSULTING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
27 VERIFICATION THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS
28 MADE AN INFORMED DECISION.

29 5. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING
30 COUNSELING, IF PERFORMED.

31 6. THE ATTENDING PHYSICIAN'S OFFER TO THE PATIENT TO RESCIND THE
32 PATIENT'S REQUEST AT THE TIME OF THE PATIENT'S SECOND ORAL REQUEST
33 PURSUANT TO SECTION 36-3309.

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

38 36-3313. Residency requirement

39 ONLY REQUESTS MADE BY RESIDENTS OF THIS STATE UNDER THIS ARTICLE MAY
40 BE GRANTED. FACTORS DEMONSTRATING ARIZONA RESIDENCY INCLUDE ANY OF THE
41 FOLLOWING:

42 1. POSSESSION OF AN ARIZONA DRIVER LICENSE.

43 2. REGISTRATION TO VOTE IN THIS STATE.

44 3. EVIDENCE THAT THE PERSON OWNS OR LEASES PROPERTY IN THIS STATE.

1 4. FILING OF AN ARIZONA STATE TAX RETURN FOR THE MOST RECENT TAX
2 YEAR.

3 36-3314. Reporting requirements; rules

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

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

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

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

16 36-3315. Effect on construction of contracts, wills or
17 agreements

18 A. A PROVISION IN A CONTRACT, WILL OR OTHER AGREEMENT, WHETHER
19 WRITTEN OR ORAL, TO THE EXTENT THAT THE PROVISION WOULD AFFECT WHETHER A
20 PERSON MAY MAKE OR RESCIND A REQUEST FOR MEDICATION TO END THE PERSON'S
21 LIFE IN A HUMANE AND DIGNIFIED MANNER, IS INVALID.

22 B. AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MAY
23 NOT BE CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A
24 REQUEST, BY A PERSON, FOR MEDICATION TO END THE PERSON'S LIFE IN A HUMANE
25 AND DIGNIFIED MANNER.

26 36-3316. Insurance or annuity policies

27 THE SALE, PROCUREMENT OR ISSUANCE OF ANY LIFE, HEALTH OR ACCIDENT
28 INSURANCE OR ANNUITY POLICY OR THE RATE CHARGED FOR ANY POLICY MAY NOT BE
29 CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST, BY A
30 PERSON, FOR MEDICATION TO END THE PERSON'S LIFE IN A HUMANE AND DIGNIFIED
31 MANNER. A QUALIFIED PATIENT'S ACT OF INGESTING MEDICATION TO END THE
32 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER DOES NOT HAVE AN EFFECT ON
33 A LIFE, HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY ISSUED OR DELIVERED
34 IN THIS STATE.

35 36-3317. Construction of article

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

41 36-3318. Immunities; prohibiting a health care provider from
42 participation; permissible sanctions; definitions

43 A. EXCEPT AS PROVIDED IN SECTION 36-3319:

44 1. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR
45 PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD FAITH

1 COMPLIANCE WITH THIS ARTICLE, INCLUDING BEING PRESENT WHEN A QUALIFIED
2 PATIENT TAKES THE PRESCRIBED MEDICATION TO END THE PATIENT'S LIFE IN A
3 HUMANE AND DIGNIFIED MANNER.

4 2. A PROFESSIONAL ORGANIZATION OR ASSOCIATION, OR HEALTH CARE
5 PROVIDER, MAY NOT SUBJECT A PERSON TO CENSURE, DISCIPLINE, SUSPENSION,
6 LOSS OF LICENSE, LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER
7 PENALTY FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD FAITH
8 COMPLIANCE WITH THIS ARTICLE.

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

13 4. A HEALTH CARE PROVIDER IS NOT UNDER ANY DUTY, WHETHER BY
14 CONTRACT, STATUTE OR ANY OTHER LEGAL REQUIREMENT, TO PARTICIPATE IN THE
15 PROVISION TO A QUALIFIED PATIENT OF MEDICATION TO END THE PATIENT'S LIFE
16 IN A HUMANE AND DIGNIFIED MANNER. IF A HEALTH CARE PROVIDER IS UNABLE OR
17 UNWILLING TO CARRY OUT A PATIENT'S REQUEST UNDER THIS ARTICLE, AND THE
18 PATIENT TRANSFERS THE PATIENT'S CARE TO A NEW HEALTH CARE PROVIDER, THE
19 PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, ON REQUEST, A COPY OF THE
20 PATIENT'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

21 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH CARE
22 PROVIDER MAY PROHIBIT ANOTHER HEALTH CARE PROVIDER FROM PARTICIPATING IN
23 THIS ARTICLE ON THE PREMISES OF THE PROHIBITING PROVIDER IF THE
24 PROHIBITING PROVIDER HAS NOTIFIED THE HEALTH CARE PROVIDER OF THE
25 PROHIBITING PROVIDER'S POLICY REGARDING PARTICIPATING IN THIS ARTICLE.
26 THIS PARAGRAPH DOES NOT PREVENT A HEALTH CARE PROVIDER FROM PROVIDING
27 HEALTH CARE SERVICES TO A PATIENT THAT DO NOT CONSTITUTE PARTICIPATION IN
28 THIS ARTICLE.

29 6. NOTWITHSTANDING PARAGRAPHS 1, 2, 3 AND 4 OF THIS SUBSECTION, A
30 HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE PROVIDER TO ANY OF
31 THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE PROVIDER HAS
32 NOTIFIED THE SANCTIONED PROVIDER BEFORE PARTICIPATION IN THIS ARTICLE THAT
33 THE ACTIONS ARE PROHIBITED:

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

41 (b) TERMINATION OF LEASE OR OTHER PROPERTY CONTRACT OR OTHER
42 NONMONETARY REMEDIES PROVIDED BY A LEASE CONTRACT, NOT INCLUDING LOSS OR
43 RESTRICTION OF MEDICAL STAFF PRIVILEGES OR EXCLUSION FROM A PROVIDER
44 PANEL, IF THE SANCTIONED PROVIDER PARTICIPATES IN THIS ARTICLE WHILE ON
45 THE PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER OR ON PROPERTY THAT

1 IS OWNED BY OR UNDER THE DIRECT CONTROL OF THE SANCTIONING HEALTH CARE
2 PROVIDER.

3 (c) TERMINATION OF CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED
4 BY CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN THIS
5 ARTICLE WHILE ACTING IN THE COURSE AND SCOPE OF THE SANCTIONED PROVIDER'S
6 CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE SANCTIONING
7 HEALTH CARE PROVIDER. THIS PARAGRAPH DOES NOT PREVENT EITHER OF THE
8 FOLLOWING:

9 (i) A HEALTH CARE PROVIDER FROM PARTICIPATING IN THIS ARTICLE WHILE
10 ACTING OUTSIDE THE COURSE AND SCOPE OF THE PROVIDER'S CAPACITY AS AN
11 EMPLOYEE OR INDEPENDENT CONTRACTOR.

12 (ii) A PATIENT FROM CONTRACTING WITH THE PATIENT'S ATTENDING
13 PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE THE COURSE AND SCOPE OF
14 THE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE
15 SANCTIONING HEALTH CARE PROVIDER.

16 7. A HEALTH CARE PROVIDER THAT IMPOSES SANCTIONS PURSUANT TO
17 PARAGRAPH 6 OF THIS SUBSECTION MUST FOLLOW ALL DUE PROCESS AND OTHER
18 PROCEDURES THE SANCTIONING HEALTH CARE PROVIDER MAY HAVE THAT ARE RELATED
19 TO THE IMPOSITION OF SANCTIONS ON ANOTHER HEALTH CARE PROVIDER.

20 8. ACTION TAKEN PURSUANT TO SECTION 36-3303, 36-3304, 36-3305 OR
21 36-3306 MAY NOT BE THE SOLE BASIS FOR A REPORT OF UNPROFESSIONAL CONDUCT
22 UNDER TITLE 32, CHAPTER 13 OR 17.

23 9. THIS ARTICLE DOES NOT ALLOW A LOWER STANDARD OF CARE FOR
24 PATIENTS IN THE COMMUNITY WHERE THE PATIENT IS TREATED OR A SIMILAR
25 COMMUNITY.

26 B. FOR THE PURPOSES OF THIS SECTION:

27 1. "NOTIFY" MEANS TO SPECIFICALLY INFORM THE HEALTH CARE PROVIDER
28 IN A SEPARATE STATEMENT IN WRITING BEFORE THE PROVIDER'S PARTICIPATION IN
29 THIS ARTICLE OF THE SANCTIONING HEALTH CARE PROVIDER'S POLICY ABOUT
30 PARTICIPATION IN ACTIVITIES COVERED BY THIS ARTICLE.

31 2. "PARTICIPATE IN THIS ARTICLE":

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

35 (b) DOES NOT INCLUDE MAKING AN INITIAL DETERMINATION THAT A PATIENT
36 HAS A TERMINAL DISEASE AND INFORMING THE PATIENT OF THE MEDICAL PROGNOSIS,
37 PROVIDING INFORMATION ABOUT THIS ARTICLE TO A PATIENT ON THE REQUEST OF
38 THE PATIENT OR PROVIDING A PATIENT, ON THE REQUEST OF THE PATIENT, WITH A
39 REFERRAL TO ANOTHER PHYSICIAN OR A PATIENT CONTRACTING WITH THE PATIENT'S
40 ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE OF THE COURSE
41 AND SCOPE OF THE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT
42 CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

43 36-3319. Violations; classification; liability

44 A. A PERSON WHO, WITHOUT AUTHORIZATION OF THE PATIENT, WILFULLY
45 ALTERS OR FORGES A REQUEST FOR MEDICATION OR CONCEALS OR DESTROYS A

1 RESCISSION OF THAT REQUEST WITH THE INTENT OR EFFECT OF CAUSING THE
2 PATIENT'S DEATH IS GUILTY OF A CLASS 2 FELONY.

3 B. A PERSON WHO COERCES OR EXERTS UNDUE INFLUENCE ON A PATIENT TO
4 REQUEST MEDICATION FOR THE PURPOSE OF ENDING THE PATIENT'S LIFE, OR TO
5 DESTROY A RESCISSION OF SUCH A REQUEST, IS GUILTY OF A CLASS 2 FELONY.

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

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

12 36-3320. Claims by governmental entity; costs

13 ANY GOVERNMENTAL ENTITY THAT INCURS COSTS RESULTING FROM A PERSON
14 TERMINATING THE PERSON'S LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE
15 HAS A CLAIM AGAINST THE ESTATE OF THE PERSON TO RECOVER THE COSTS AND
16 REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

17 36-3321. Form of request

18 A REQUEST FOR A MEDICATION AS AUTHORIZED BY THIS ARTICLE MAY BE
19 TRANSLATED INTO A PATIENT'S PRIMARY LANGUAGE IF THE PATIENT DOES NOT SPEAK
20 ENGLISH AND SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

21 REQUEST FOR MEDICATION
22 TO END MY LIFE IN A HUMANE
23 AND DIGNIFIED MANNER

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

25 I AM SUFFERING FROM _____, WHICH MY ATTENDING
26 PHYSICIAN HAS DETERMINED IS A TERMINAL DISEASE AND WHICH HAS
27 BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

28 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
29 PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND
30 POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT AND THE
31 FEASIBLE ALTERNATIVES, INCLUDING COMFORT CARE, HOSPICE CARE
32 AND PAIN CONTROL.

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

36 INITIAL ONE:

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

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

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

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

44 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I
45 EXPECT TO DIE WHEN I TAKE THE MEDICATION TO BE PRESCRIBED. I

1 FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN
2 THREE HOURS, MY DEATH MAY TAKE LONGER AND MY PHYSICIAN HAS
3 COUNSELED ME ABOUT THIS POSSIBILITY.

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

6 SIGNED: _____

7 DATED: _____

8 DECLARATION OF WITNESSES

9 WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

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

12 2. SIGNED THIS REQUEST IN OUR PRESENCE.

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

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

17 _____ WITNESS 1/DATE _____

18 _____ WITNESS 2/DATE _____

19 NOTE: ONE WITNESS MAY NOT BE A RELATIVE (BY BLOOD,
20 MARRIAGE OR ADOPTION) OF THE PERSON SIGNING THIS REQUEST, MAY
21 NOT BE ENTITLED TO ANY PORTION OF THE PERSON'S ESTATE ON DEATH
22 AND MAY NOT OWN, OPERATE OR BE EMPLOYED AT A HEALTH CARE
23 FACILITY WHERE THE PERSON IS A PATIENT OR RESIDENT. IF THE
24 PATIENT IS AN INPATIENT AT A HEALTH CARE FACILITY, ONE OF THE
25 WITNESSES MUST BE AN INDIVIDUAL DESIGNATED BY THE FACILITY.

26 36-3322. Violations; classification

27 A. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT
28 AUTHORIZATION OF THE PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR
29 DESTROYS AN INSTRUMENT, THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT
30 OR ANY OTHER EVIDENCE OR DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND
31 INTERESTS, WITH THE INTENT AND EFFECT OF CAUSING A WITHHOLDING OR
32 WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES OR OF ARTIFICIALLY ADMINISTERED
33 NUTRITION AND HYDRATION THAT HASTENS THE DEATH OF THE PRINCIPAL.

34 B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION, A PERSON IS
35 GUILTY OF A CLASS 1 MISDEMEANOR WHO, WITHOUT AUTHORIZATION OF THE
36 PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR DESTROYS AN INSTRUMENT,
37 THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT OR ANY OTHER EVIDENCE OR
38 DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND INTERESTS WITH THE INTENT
39 OR EFFECT OF AFFECTING A HEALTH CARE DECISION.

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.