

REFERENCE TITLE: **terminally ill; care choices.**

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2611

Introduced by
Representatives Gonzales: Cardenas, Gabaldón, Hernandez, Martinez,
Powers Hannley, Saldate

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:

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

3. "CAPABLE" MEANS THAT IN THE OPINION OF A COURT OR IN THE OPINION OF A PATIENT'S ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE PATIENT HAS THE ABILITY TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS TO HEALTH CARE PROVIDERS, INCLUDING COMMUNICATION THROUGH PERSONS 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 THE PATIENT'S DISEASE.

5. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY BETWEEN A STATE-LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A PATIENT FOR THE PURPOSE OF DETERMINING THAT 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 PERMITTED 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 BY A QUALIFIED PATIENT TO REQUEST AND OBTAIN A PRESCRIPTION TO END THE PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER THAT IS BASED ON AN APPRECIATION OF THE RELEVANT FACTS AND THAT IS MADE AFTER BEING FULLY INFORMED BY THE ATTENDING PHYSICIAN 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.

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

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

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

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

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

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

16 36-3302. Written request for medication; initiation; language
17 interpreter

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

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

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

29 36-3303. Form of request; translation; witnesses; signatures

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

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

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

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

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

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

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

9 36-3304. Attending physician; requirements

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

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

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

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

17 (a) THE PATIENT'S MEDICAL DIAGNOSIS.

18 (b) THE PATIENT'S PROGNOSIS.

19 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
20 PRESCRIBED.

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

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

24 4. REFER THE PATIENT TO A CONSULTING PHYSICIAN FOR MEDICAL
25 CONFIRMATION OF THE DIAGNOSIS AND FOR A DETERMINATION THAT THE PATIENT IS
26 CAPABLE AND ACTING VOLUNTARILY.

27 5. REFER THE PATIENT FOR COUNSELING IF APPROPRIATE PURSUANT TO
28 SECTION 36-3306.

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

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

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

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

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

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

12. EITHER:

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

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

7 (i) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE
8 PRESCRIPTION.

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

13. ALLOW THE PATIENT TO BE ACCCOMPANIED BY ANYONE THE PATIENT
14 CHOOSES.

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

17 36-3305. Consulting physician confirmation of diagnosis

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

24 36-3306. Counseling referral; prohibition

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

33 36-3307. Informed decision

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

39 36-3308. Family notification

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

1 36-3309. Written and oral requests

2 IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICATION TO END THE
3 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER, A QUALIFIED PATIENT MUST
4 HAVE MADE AN ORAL REQUEST AND A WRITTEN REQUEST AND MUST REITERATE THE
5 ORAL REQUEST TO THE PATIENT'S ATTENDING PHYSICIAN AT LEAST FIFTEEN DAYS
6 AFTER MAKING THE INITIAL ORAL REQUEST. AT THE TIME THE QUALIFIED PATIENT
7 MAKES THE SECOND ORAL REQUEST, THE ATTENDING PHYSICIAN SHALL OFFER THE
8 PATIENT AN OPPORTUNITY TO RESCIND THE REQUEST.

9 36-3310. Right to rescind request

10 A PATIENT MAY RESCIND A REQUEST AT ANY TIME AND IN ANY MANNER
11 WITHOUT REGARD TO THE PATIENT'S MENTAL STATE. THE ATTENDING PHYSICIAN MAY
12 NOT WRITE A PRESCRIPTION FOR MEDICATION UNDER THIS ARTICLE WITHOUT
13 OFFERING THE QUALIFIED PATIENT AN OPPORTUNITY TO RESCIND THE REQUEST.

14 36-3311. Waiting periods; disposal of unused medication

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

17 B. IF A PRESCRIPTION IS WRITTEN UNDER THIS ARTICLE AND THE PATIENT
18 DECIDES NOT TO USE THE MEDICATION TO END THE PATIENT'S LIFE, THE PATIENT
19 SHALL DISPOSE OF THE MEDICATION USING A UNITED STATES DRUG ENFORCEMENT
20 ADMINISTRATION AUTHORIZED COLLECTOR.

21 36-3312. Medical records; documentation; requirements

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

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

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

28 3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
29 DETERMINATION THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS
30 MADE AN INFORMED DECISION.

31 4. THE CONSULTING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
32 VERIFICATION THAT THE PATIENT IS CAPABLE, IS ACTING VOLUNTARILY AND HAS
33 MADE AN INFORMED DECISION.

34 5. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING
35 COUNSELING, IF PERFORMED.

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

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

1 36-3313. Residency requirement

2 AN ATTENDING PHYSICIAN MAY GRANT A REQUEST UNDER THIS ARTICLE ONLY
3 TO A RESIDENT OF THIS STATE. FACTORS DEMONSTRATING ARIZONA RESIDENCY
4 INCLUDE ANY OF THE FOLLOWING:

- 5 1. POSSESSION OF AN ARIZONA DRIVER LICENSE.
- 6 2. REGISTRATION TO VOTE IN THIS STATE.
- 7 3. EVIDENCE THAT THE PERSON OWNS OR LEASES PROPERTY IN THIS STATE.
- 8 4. FILING OF AN ARIZONA STATE TAX RETURN FOR THE MOST RECENT TAX
9 YEAR.

10 36-3314. Reporting requirements: rules

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

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

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

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

22 36-3315. Effect on construction of contracts, wills or
23 agreements

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

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

32 36-3316. Insurance or annuity policies

33 THE SALE, PROCUREMENT OR ISSUANCE OF A LIFE, HEALTH OR ACCIDENT
34 INSURANCE OR ANNUITY POLICY OR THE RATE CHARGED FOR A POLICY MAY NOT BE
35 CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A PERSON'S
36 REQUEST FOR MEDICATION TO END THE PERSON'S LIFE IN A HUMANE AND DIGNIFIED
37 MANNER. A QUALIFIED PATIENT'S ACT OF INGESTING MEDICATION TO END THE
38 PATIENT'S LIFE IN A HUMANE AND DIGNIFIED MANNER DOES NOT AFFECT A LIFE,
39 HEALTH OR ACCIDENT INSURANCE OR ANNUITY POLICY ISSUED OR DELIVERED IN THIS
40 STATE.

41 36-3317. Construction of article

42 THIS ARTICLE DOES NOT AUTHORIZE A PHYSICIAN OR ANY OTHER PERSON TO
43 END A PATIENT'S LIFE BY LETHAL INJECTION, MERCY KILLING OR ACTIVE
44 EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE DO NOT, FOR ANY

1 PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING OR HOMICIDE
2 UNDER THE LAW.

3 36-3318. Immunities; prohibiting a health care provider from
4 participation; permissible sanctions; definitions

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

6 1. A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR
7 PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD FAITH
8 COMPLIANCE WITH THIS ARTICLE, INCLUDING BEING PRESENT WHEN A QUALIFIED
9 PATIENT TAKES THE PRESCRIBED MEDICATION TO END THE PATIENT'S LIFE IN A
10 HUMANE AND DIGNIFIED MANNER.

11 2. A PROFESSIONAL ORGANIZATION OR ASSOCIATION OR A HEALTH CARE
12 PROVIDER MAY NOT SUBJECT A PERSON TO CENSURE, DISCIPLINE, SUSPENSION, LOSS
13 OF LICENSE, LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER PENALTY
14 FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD FAITH COMPLIANCE WITH
15 THIS ARTICLE.

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

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

28 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH CARE
29 PROVIDER MAY PROHIBIT ANOTHER HEALTH CARE PROVIDER FROM PARTICIPATING IN
30 THIS ARTICLE ON THE PREMISES OF THE PROHIBITING PROVIDER IF THE
31 PROHIBITING PROVIDER HAS NOTIFIED THE HEALTH CARE PROVIDER OF THE
32 PROHIBITING PROVIDER'S POLICY REGARDING PARTICIPATING IN THIS ARTICLE.
33 THIS PARAGRAPH DOES NOT PREVENT A HEALTH CARE PROVIDER FROM PROVIDING
34 HEALTH CARE SERVICES TO A PATIENT THAT DO NOT CONSTITUTE PARTICIPATION IN
35 THIS ARTICLE.

36 6. NOTWITHSTANDING PARAGRAPHS 1, 2, 3 AND 4 OF THIS SUBSECTION, A
37 HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE PROVIDER TO ANY OF
38 THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE PROVIDER HAS
39 NOTIFIED THE SANCTIONED PROVIDER BEFORE PARTICIPATION IN THIS ARTICLE THAT
40 THE ACTIONS ARE PROHIBITED:

41 (a) LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER SANCTION
42 PROVIDED PURSUANT TO THE MEDICAL STAFF BYLAWS, POLICIES AND PROCEDURES OF
43 THE SANCTIONING HEALTH CARE PROVIDER IF THE SANCTIONED PROVIDER IS A
44 MEMBER OF THE SANCTIONING HEALTH CARE PROVIDER'S MEDICAL STAFF AND
45 PARTICIPATES IN THIS ARTICLE WHILE ON THE HEALTH CARE FACILITY PREMISES OF

1 THE SANCTIONING HEALTH CARE PROVIDER, BUT NOT INCLUDING THE PRIVATE
2 MEDICAL OFFICE OF A PHYSICIAN OR OTHER PROVIDER.

3 (b) TERMINATION OF LEASE OR OTHER PROPERTY CONTRACT OR OTHER
4 NONMONETARY REMEDIES PROVIDED BY A LEASE CONTRACT, NOT INCLUDING LOSS OR
5 RESTRICTION OF MEDICAL STAFF PRIVILEGES OR EXCLUSION FROM A PROVIDER
6 PANEL, IF THE SANCTIONED PROVIDER PARTICIPATES IN THIS ARTICLE WHILE ON
7 THE PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER OR ON PROPERTY THAT
8 IS OWNED BY OR UNDER THE DIRECT CONTROL OF THE SANCTIONING HEALTH CARE
9 PROVIDER.

10 (c) TERMINATION OF CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED
11 BY CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN THIS
12 ARTICLE WHILE ACTING IN THE COURSE AND SCOPE OF THE SANCTIONED PROVIDER'S
13 CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE SANCTIONING
14 HEALTH CARE PROVIDER. THIS PARAGRAPH DOES NOT PREVENT EITHER OF THE
15 FOLLOWING:

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

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

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

27 8. ACTION TAKEN PURSUANT TO SECTION 36-3303, 36-3304, 36-3305 OR
28 36-3306 MAY NOT BE THE SOLE BASIS FOR A REPORT OF UNPROFESSIONAL CONDUCT
29 UNDER TITLE 32, CHAPTER 13 OR 17.

30 9. THIS ARTICLE DOES NOT ALLOW A LOWER STANDARD OF CARE FOR
31 PATIENTS IN THE COMMUNITY WHERE THE PATIENT IS TREATED OR A SIMILAR
32 COMMUNITY.

33 B. FOR THE PURPOSES OF THIS SECTION:

34 1. "NOTIFY" MEANS TO SPECIFICALLY INFORM THE HEALTH CARE PROVIDER
35 IN A SEPARATE STATEMENT IN WRITING BEFORE THE HEALTH CARE PROVIDER'S
36 PARTICIPATION IN THIS ARTICLE OF THE SANCTIONING HEALTH CARE PROVIDER'S
37 POLICY ABOUT PARTICIPATION IN ACTIVITIES COVERED BY THIS ARTICLE.

38 2. "PARTICIPATE IN THIS ARTICLE":

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

42 (b) DOES NOT INCLUDE MAKING AN INITIAL DETERMINATION THAT A PATIENT
43 HAS A TERMINAL DISEASE AND INFORMING THE PATIENT OF THE MEDICAL PROGNOSIS,
44 PROVIDING INFORMATION ABOUT THIS ARTICLE TO A PATIENT ON THE PATIENT'S
45 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 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 MEDICATION FOR THE PURPOSE OF ENDING 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 OF 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.

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 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 MEDICATION
TO END MY LIFE IN A HUMANE
AND DIGNIFIED MANNER

I, , AM AN ADULT OF SOUND MIND.

1 I AM SUFFERING FROM _____, WHICH MY ATTENDING
2 PHYSICIAN HAS DETERMINED IS A TERMINAL DISEASE AND WHICH HAS
3 BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

4 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
5 PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED AND
6 POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT AND THE
7 FEASIBLE ALTERNATIVES, INCLUDING COMFORT CARE, HOSPICE CARE
8 AND PAIN CONTROL.

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

12 INITIAL ONE:

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

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

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

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

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

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

27 SIGNED: _____

28 DATED: _____

29 DECLARATION OF WITNESSES

30 WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

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

33 2. SIGNED THIS REQUEST IN OUR PRESENCE.

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

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

38 _____ WITNESS 1/DATE _____

39 _____ WITNESS 2/DATE _____

40 NOTE: ONE WITNESS CANNOT BE A RELATIVE (BY BLOOD,
41 MARRIAGE OR ADOPTION) OF THE PERSON SIGNING THIS REQUEST,
42 CANNOT BE ENTITLED TO ANY PORTION OF THE PERSON'S ESTATE ON
43 DEATH AND CANNOT OWN, OPERATE OR BE EMPLOYED AT A HEALTH CARE
44 FACILITY WHERE THE PERSON IS A PATIENT OR RESIDENT. IF THE

1 PATIENT IS AN INPATIENT AT A HEALTH CARE FACILITY, ONE OF THE
2 WITNESSES MUST BE AN INDIVIDUAL DESIGNATED BY THE FACILITY.

3 Sec. 2. Severability

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

9 Sec. 3. Short title

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