

REFERENCE TITLE: terminally ill; care choices

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SB 1414

Introduced by  
Senators Mendez: Dalessandro, Quezada; Representatives Andrade, Blanc,  
Fernandez, Gabaldón, Gonzales, Navarrete, 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.

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.

1 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 13. ALLOW THE PATIENT TO BE ACCOMPANIED 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  
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 NEGLIGENCE 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

1 TO ANOTHER PHYSICIAN OR A PATIENT CONTRACTING WITH THE PATIENT'S ATTENDING  
2 PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE OF THE COURSE AND SCOPE  
3 OF THE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE  
4 SANCTIONING HEALTH CARE PROVIDER.

5 36-3319. Violations; classification; liability

6 A. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT THE  
7 PATIENT'S AUTHORIZATION, WILFULLY ALTERS OR FORGES A REQUEST FOR  
8 MEDICATION OR CONCEALS OR DESTROYS A RESCISSION OF THAT REQUEST WITH THE  
9 INTENT OR EFFECT OF CAUSING THE PATIENT'S DEATH.

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

13 C. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT  
14 AUTHORIZATION OF THE PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR  
15 DESTROYS AN INSTRUMENT, THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT  
16 OR ANY OTHER EVIDENCE OR DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND  
17 INTERESTS, WITH THE INTENT AND EFFECT OF CAUSING A WITHHOLDING OR  
18 WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES OR OF ARTIFICIALLY ADMINISTERED  
19 NUTRITION AND HYDRATION THAT HASTENS THE DEATH OF THE PRINCIPAL.

20 D. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A PERSON IS  
21 GUILTY OF A CLASS 1 MISDEMEANOR WHO, WITHOUT AUTHORIZATION OF THE  
22 PRINCIPAL, WILFULLY ALTERS, FORGES, CONCEALS OR DESTROYS AN INSTRUMENT,  
23 THE REINSTATEMENT OR REVOCATION OF AN INSTRUMENT OR ANY OTHER EVIDENCE OR  
24 DOCUMENT REFLECTING THE PRINCIPAL'S DESIRES AND INTERESTS WITH THE INTENT  
25 OR EFFECT OF AFFECTING A HEALTH CARE DECISION.

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

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

32 36-3320. Claims by governmental entity; costs

33 A GOVERNMENTAL ENTITY THAT INCURS COSTS RESULTING FROM A PERSON  
34 TERMINATING THE PERSON'S LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE  
35 HAS A CLAIM AGAINST THE ESTATE OF THE PERSON TO RECOVER THE COSTS AND  
36 REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

37 36-3321. Form of request

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

41 REQUEST FOR MEDICATION  
42 TO END MY LIFE IN A HUMANE  
43 AND DIGNIFIED MANNER

44 I, \_\_\_\_\_, AM AN ADULT OF SOUND MIND.

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I AM SUFFERING FROM \_\_\_\_\_, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL DISEASE AND WHICH HAS BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

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

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

INITIAL ONE:

\_\_\_\_\_ I HAVE INFORMED MY FAMILY OF MY DECISION AND TAKEN THEIR OPINIONS INTO CONSIDERATION.

\_\_\_\_\_ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.

\_\_\_\_\_ I HAVE NO FAMILY TO INFORM OF MY DECISION.

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

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

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

SIGNED: \_\_\_\_\_

DATED: \_\_\_\_\_

DECLARATION OF WITNESSES

WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

1. IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY.
2. SIGNED THIS REQUEST IN OUR PRESENCE.
3. APPEARS TO BE OF SOUND MIND AND TO NOT BE UNDER DURESS, FRAUD OR UNDUE INFLUENCE.
4. IS NOT A PATIENT FOR WHOM EITHER OF US IS THE ATTENDING PHYSICIAN.

\_\_\_\_\_ WITNESS 1/DATE \_\_\_\_\_

\_\_\_\_\_ WITNESS 2/DATE \_\_\_\_\_

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