

REFERENCE TITLE: **terminally ill individuals; end-of-life decisions**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2878

Introduced by
Representatives Mathis: De Los Santos, Gutierrez

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 A PERSON WHO IS QUALIFIED BY
12 SPECIALTY OR EXPERIENCE TO DETERMINE AN INDIVIDUAL'S ELIGIBILITY TO PURSUE
13 MEDICAL AID IN DYING UNDER THIS ARTICLE, WHO AGREES TO WRITE THE
14 PRESCRIPTIONS AND WHO TAKES RESPONSIBILITY FOR COUNSELING THE INDIVIDUAL,
15 MAKING CARE DECISIONS, ENSURING COMPLIANCE WITH THIS ARTICLE AND
16 SUBMITTING PROPER DOCUMENTATION TO THE DEPARTMENT.

17 3. "CAPACITY" MEANS AN INDIVIDUAL'S ABILITY, AS DETERMINED BY
18 PROFESSIONAL STANDARDS OF CARE, TO UNDERSTAND AND APPRECIATE HEALTH CARE
19 OPTIONS AVAILABLE TO THE INDIVIDUAL, INCLUDING SIGNIFICANT BENEFITS AND
20 RISKS, AND TO MAKE AND COMMUNICATE AN INFORMED HEALTH CARE DECISION.

21 4. "COERCION OR UNDUE INFLUENCE" MEANS THE WILFUL ATTEMPT, WHETHER
22 BY DECEPTION, INTIMIDATION OR ANY OTHER MEANS, TO CAUSE AN INDIVIDUAL TO
23 REQUEST, OBTAIN OR SELF-ADMINISTER MEDICATION PURSUANT TO THIS ARTICLE
24 WITH INTENT TO CAUSE THE DEATH OF THE INDIVIDUAL OR TO PREVENT THE
25 INDIVIDUAL FROM OBTAINING OR SELF-ADMINISTERING MEDICATION PURSUANT TO
26 THIS ARTICLE.

27 5. "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY
28 SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS
29 REGARDING AN INDIVIDUAL'S DISEASE.

30 6. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY
31 BETWEEN A MENTAL HEALTH PROFESSIONAL AND AN INDIVIDUAL TO DETERMINE
32 WHETHER THE INDIVIDUAL HAS CAPACITY AND IS NOT SUFFERING FROM A
33 PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED
34 JUDGMENT.

35 7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

36 8. "HEALTH CARE FACILITY":

37 (a) MEANS A HOSPITAL, MEDICAL CLINIC, NURSING HOME OR INPATIENT
38 HOSPICE FACILITY OR ANY OTHER LICENSED HEALTH CARE INSTITUTION WHERE THE
39 DELIVERY OF HEALTH CARE IS FACILITATED.

40 (b) DOES NOT INCLUDE AN INDIVIDUAL HEALTH CARE PROVIDER.

41 9. "HEALTH CARE PROVIDER":

42 (a) MEANS A PERSON WHO IS LICENSED, CERTIFIED OR OTHERWISE
43 AUTHORIZED OR ALLOWED BY THE LAWS OF THIS STATE TO ADMINISTER HEALTH CARE
44 OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A
45 PROFESSION.

- 1 (b) DOES NOT INCLUDE A HEALTH CARE FACILITY.
2 10. "INFORMED DECISION" MEANS A VOLUNTARY AFFIRMATIVE DECISION THAT
3 IS ALL OF THE FOLLOWING:
4 (a) MADE BY A QUALIFIED INDIVIDUAL TO REQUEST AND OBTAIN A
5 PRESCRIPTION FOR MEDICATION THAT THE INDIVIDUAL WILL SELF-ADMINISTER TO
6 END THE INDIVIDUAL'S LIFE IN A HUMANE AND DIGNIFIED MANNER.
7 (b) BASED ON AN APPRECIATION OF THE RELEVANT FACTS.
8 (c) MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE INDIVIDUAL
9 OF ALL OF THE FOLLOWING:
10 (i) THE INDIVIDUAL'S MEDICAL DIAGNOSIS.
11 (ii) THE INDIVIDUAL'S PROGNOSIS.
12 (iii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO
13 BE PRESCRIBED.
14 (iv) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.
15 (v) THE FEASIBLE ALTERNATIVES AND CONCURRENT OR ADDITIONAL
16 TREATMENT OPPORTUNITIES FOR THE INDIVIDUAL'S TERMINAL ILLNESS, INCLUDING
17 COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, PAIN CONTROL AND
18 DISEASE-DIRECTED TREATMENT OPTIONS, AS WELL AS THE RISKS AND BENEFITS OF
19 EACH ALTERNATIVE.
20 11. "MEDICAL AID IN DYING" MEANS THE PRACTICE OF EVALUATING A
21 REQUEST FROM, DETERMINING QUALIFICATION FOR AND PROVIDING A PRESCRIPTION
22 FOR MEDICATION TO A QUALIFIED INDIVIDUAL PURSUANT TO THIS ARTICLE.
23 12. "MEDICALLY CONFIRM" MEANS THAT A CONSULTING PHYSICIAN WHO HAS
24 EXAMINED THE INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS
25 CONFIRMS THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.
26 13. "MENTAL HEALTH PROFESSIONAL" MEANS A PSYCHIATRIST, PSYCHOLOGIST
27 OR PSYCHIATRIC NURSE PRACTITIONER WHO IS LICENSED BY THIS STATE.
28 14. "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE
29 32, CHAPTER 13 OR 17.
30 15. "PRESCRIPTION FOR MEDICATION" MEANS A PRESCRIPTION THAT IS
31 WRITTEN BY AN ATTENDING PHYSICIAN FOR MEDICATION FOR A QUALIFIED
32 INDIVIDUAL TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH IN
33 ACCORDANCE WITH THIS ARTICLE.
34 16. "QUALIFIED INDIVIDUAL" MEANS A TERMINALLY ILL ADULT WITH
35 CAPACITY WHO IS A RESIDENT OF THIS STATE AND WHO HAS SATISFIED THE
36 REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR
37 MEDICATION.
38 17. "SELF-ADMINISTER":
39 (a) MEANS AN AFFIRMATIVE, CONSCIOUS VOLUNTARY ACT BY A QUALIFIED
40 INDIVIDUAL TO INGEST THE PRESCRIPTION MEDICATION.
41 (b) DOES NOT INCLUDE THE ADMINISTRATION OF PRESCRIPTION MEDICATION
42 BY AN INJECTION OR INTRAVENOUS INFUSION.

1 18. "TELEMEDICINE" MEANS THE DELIVERY OF HEALTH CARE SERVICES SUCH
2 AS DIAGNOSIS, CONSULTATION OR TREATMENT THROUGH THE USE OF LIVE
3 INTERACTIVE AUDIO AND VIDEO OVER A SECURE CONNECTION THAT COMPLIES WITH
4 THE REQUIREMENTS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
5 ACT (P.L. 104-191).

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

9 36-3302. Prescription for medication; written request;
10 initiation

11 AN ADULT RESIDENT OF THIS STATE WHO HAS CAPACITY, WHOM THE ATTENDING
12 PHYSICIAN AND CONSULTING PHYSICIAN HAVE DETERMINED IS SUFFERING FROM A
13 TERMINAL ILLNESS AND WHO HAS VOLUNTARILY EXPRESSED A WISH TO DIE MAY MAKE
14 A WRITTEN REQUEST FOR A PRESCRIPTION FOR MEDICATION.

15 36-3303. Form of request; translation; witnesses; signatures

16 A. A VALID REQUEST FOR A PRESCRIPTION FOR MEDICATION MUST BE IN
17 SUBSTANTIALLY THE FORM DESCRIBED IN SECTION 36-3323, BE SIGNED AND DATED
18 BY THE QUALIFIED INDIVIDUAL AND BE WITNESSED BY TWO INDIVIDUALS WHO, IN
19 THE PRESENCE OF THE QUALIFIED INDIVIDUAL, ATTEST THAT TO THE BEST OF THEIR
20 KNOWLEDGE AND BELIEF THE QUALIFIED INDIVIDUAL HAS CAPACITY, IS ACTING
21 VOLUNTARILY AND IS NOT BEING COERCED TO SIGN THE REQUEST. A PERSON WHO
22 DOES NOT SPEAK ENGLISH MAY HAVE THE WRITTEN REQUEST FORM TRANSLATED INTO
23 THE PERSON'S PRIMARY LANGUAGE FOR SIGNATURE.

24 B. ONE OF THE WITNESSES MUST BE AN INDIVIDUAL WHO IS NOT ANY OF THE
25 FOLLOWING:

26 1. RELATED TO THE QUALIFIED INDIVIDUAL BY BLOOD, MARRIAGE, ADOPTION
27 OR REGISTERED DOMESTIC PARTNERSHIP.

28 2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY PORTION OF
29 THE QUALIFIED INDIVIDUAL'S ESTATE ON THE QUALIFIED INDIVIDUAL'S DEATH
30 UNDER ANY WILL OR BY OPERATION OF LAW.

31 3. AT THE TIME THE REQUEST IS SIGNED, THE QUALIFIED INDIVIDUAL'S
32 ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, MENTAL HEALTH PROFESSIONAL OR
33 INTERPRETER.

34 36-3304. Attending physician; requirements

35 THE ATTENDING PHYSICIAN SHALL DO ALL OF THE FOLLOWING:

36 1. MAKE THE INITIAL DETERMINATION WHETHER AN INDIVIDUAL HAS A
37 TERMINAL ILLNESS, HAS CAPACITY AND HAS MADE THE REQUEST VOLUNTARILY.

38 2. REQUEST THE INDIVIDUAL TO DEMONSTRATE RESIDENCY IN THIS STATE
39 PURSUANT TO SECTION 36-3313.

40 3. ENSURE THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION BY
41 INFORMING THE PATIENT OF ALL OF THE FOLLOWING:

42 (a) THE INDIVIDUAL'S MEDICAL DIAGNOSIS.

43 (b) THE INDIVIDUAL'S PROGNOSIS.

44 (c) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
45 PRESCRIBED.

1 (d) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED.
2 (e) FEASIBLE ALTERNATIVES AND CONCURRENT OR ADDITIONAL TREATMENT
3 OPPORTUNITIES FOR THE INDIVIDUAL'S TERMINAL ILLNESS, INCLUDING COMFORT
4 CARE, PALLIATIVE CARE, HOSPICE CARE, PAIN CONTROL AND DISEASE-DIRECTED
5 TREATMENT OPTIONS, AS WELL AS THE RISKS AND BENEFITS OF EACH ALTERNATIVE.
6 4. PROVIDE THE INDIVIDUAL WITH A REFERRAL FOR COMFORT CARE,
7 PALLIATIVE CARE, HOSPICE CARE, PAIN CONTROL OR OTHER END-OF-LIFE TREATMENT
8 OPPORTUNITIES AS REQUESTED OR AS CLINICALLY INDICATED.
9 5. CONFIRM THAT THE INDIVIDUAL'S REQUEST DOES NOT ARISE FROM
10 COERCION OR UNDUE INFLUENCE BY ASKING THE INDIVIDUAL ABOUT COERCION AND
11 UNDUE INFLUENCE OUTSIDE OF THE PRESENCE OF OTHER PERSONS, EXCEPT AN
12 INTERPRETER AS NECESSARY.
13 6. DISCUSS WITH THE INDIVIDUAL THE INDIVIDUAL'S RIGHT TO RESCIND
14 THE REQUEST AT ANY TIME.
15 7. REFER THE PATIENT INDIVIDUAL TO A CONSULTING PHYSICIAN TO
16 MEDICALLY CONFIRM THE DIAGNOSIS AND TO DETERMINE THAT THE INDIVIDUAL HAS
17 CAPACITY AND IS ACTING VOLUNTARILY AND NOTE THIS DETERMINATION IN THE
18 INDIVIDUAL'S MEDICAL RECORD.
19 8. REFER THE INDIVIDUAL TO A MENTAL HEALTH PROFESSIONAL FOR
20 COUNSELING IF APPROPRIATE PURSUANT TO SECTION 36-3306 AND NOTE THIS
21 DETERMINATION IN THE INDIVIDUAL'S MEDICAL RECORD.
22 9. COUNSEL THE INDIVIDUAL ABOUT THE IMPORTANCE OF ALL OF THE
23 FOLLOWING:
24 (a) SAFELY KEEPING AND DISPOSING OF ALL UNUSED PRESCRIBED
25 MEDICATION.
26 (b) THE RECOMMENDED METHODS OF SELF-ADMINISTERING THE MEDICATIONS
27 PRESCRIBED UNDER THIS ARTICLE.
28 (c) HAVING ANOTHER PERSON PRESENT WHEN THE INDIVIDUAL TAKES THE
29 MEDICATION.
30 (d) NOT TAKING THE MEDICATION IN A PUBLIC PLACE.
31 (e) THE BENEFITS OF NOTIFYING THE INDIVIDUAL'S NEXT OF KIN.
32 10. OFFER THE INDIVIDUAL AN OPPORTUNITY TO RESCIND AT THE END OF
33 THE FIFTEEN-DAY WAITING PERIOD PRESCRIBED IN SECTION 36-3311.
34 11. IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR MEDICATION,
35 VERIFY THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION.
36 12. EITHER:
37 (a) IF THE ATTENDING PHYSICIAN IS AUTHORIZED BY STATE AND FEDERAL
38 LAW TO DISPENSE THE MEDICATION, DISPENSE THE MEDICATION DIRECTLY,
39 INCLUDING ANY ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE INDIVIDUAL'S
40 DISCOMFORT.
41 (b) WITH THE INDIVIDUAL'S WRITTEN CONSENT, DO BOTH OF THE
42 FOLLOWING:
43 (i) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE
44 PRESCRIPTION.

1 (ii) DELIVER THE WRITTEN PRESCRIPTION FOR MEDICATION PERSONALLY OR
2 BY OTHER MEANS TO THE PHARMACIST, WHO SHALL DISPENSE THE MEDICATIONS TO
3 EITHER THE QUALIFIED INDIVIDUAL, THE ATTENDING PHYSICIAN OR AN EXPRESSLY
4 IDENTIFIED AGENT OF THE QUALIFIED INDIVIDUAL.

5 13. DOCUMENT THE QUALIFIED INDIVIDUAL'S MEDICAL RECORD AS REQUIRED
6 IN SECTION 36-3312.

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

9 36-3305. Consulting physician; confirmation of diagnosis;
10 requirements

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

17 36-3306. Counseling referral; prohibition

18 IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES AN
19 INDIVIDUAL MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER
20 OR DEPRESSION CAUSING IMPAIRED JUDGMENT, EITHER PHYSICIAN SHALL REFER THE
21 INDIVIDUAL FOR COUNSELING. THE ATTENDING PHYSICIAN MAY NOT WRITE A
22 PRESCRIPTION FOR MEDICATION UNTIL THE PERSON PERFORMING THE COUNSELING
23 DETERMINES THAT THE INDIVIDUAL IS NOT SUFFERING FROM A PSYCHIATRIC OR
24 PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT AND
25 PROVIDES A WRITTEN REPORT.

26 36-3307. Informed decision required; verification

27 THE ATTENDING PHYSICIAN MAY NOT WRITE A PRESCRIPTION FOR MEDICATION
28 UNLESS THE QUALIFIED INDIVIDUAL HAS MADE AN INFORMED DECISION.
29 IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR MEDICATION, THE ATTENDING
30 PHYSICIAN SHALL VERIFY THAT THE QUALIFIED INDIVIDUAL IS MAKING AN INFORMED
31 DECISION.

32 36-3308. Family notification

33 THE ATTENDING PHYSICIAN SHALL RECOMMEND THAT THE QUALIFIED
34 INDIVIDUAL NOTIFY THE QUALIFIED INDIVIDUAL'S NEXT OF KIN REGARDING THE
35 QUALIFIED INDIVIDUAL'S REQUEST FOR A PRESCRIPTION FOR MEDICATION. IF THE
36 QUALIFIED INDIVIDUAL DECLINES OR IS UNABLE TO NOTIFY NEXT OF KIN, THE
37 ATTENDING PHYSICIAN MAY NOT DENY THE QUALIFIED INDIVIDUAL'S REQUEST FOR
38 THAT REASON.

39 36-3309. Use of interpreters

40 AN INTERPRETER WHOSE SERVICES ARE PROVIDED TO AN INDIVIDUAL
41 REQUESTING INFORMATION ON CARE UNDER THIS ARTICLE SHALL MEET THE STANDARDS
42 ADOPTED BY THE NATIONAL COUNCIL ON INTERPRETING IN HEALTH CARE OR OTHER
43 STANDARDS DEEMED ACCEPTABLE BY THE DEPARTMENT FOR HEALTH CARE PROVIDERS IN
44 THIS STATE. AN INTERPRETER WHO IS USED FOR THE PURPOSES OF THIS ARTICLE
45 MAY NOT:

1 1. BE RELATED TO THE QUALIFIED INDIVIDUAL BY BLOOD, MARRIAGE,
2 REGISTERED DOMESTIC PARTNERSHIP OR ADOPTION OR BE ENTITLED TO A PORTION OF
3 THE INDIVIDUAL'S ESTATE ON DEATH.

4 2. ACT AS A WITNESS FOR THE INDIVIDUAL'S WRITTEN REQUEST.

5 36-3310. Right to rescind request; disposal of unused
6 medication

7 A. A QUALIFIED INDIVIDUAL MAY RESCIND A REQUEST AT ANY TIME AND IN
8 ANY MANNER WITHOUT REGARD TO THE QUALIFIED INDIVIDUAL'S MENTAL STATE. THE
9 ATTENDING PHYSICIAN MAY NOT WRITE A PRESCRIPTION FOR MEDICATION WITHOUT
10 OFFERING THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST.

11 B. IF THE ATTENDING PHYSICIAN WRITES A PRESCRIPTION FOR MEDICATION
12 AND THE QUALIFIED INDIVIDUAL DECIDES NOT TO USE THE MEDICATION TO END THE
13 QUALIFIED INDIVIDUAL'S LIFE, THE UNUSED MEDICATION MUST BE DISPOSED OF BY
14 ANY LEGAL MEANS OR AS PRESCRIBED BY RULE.

15 36-3311. Oral request; written request; waiting period;
16 waiver

17 A. TO RECEIVE A PRESCRIPTION FOR MEDICATION THAT A QUALIFIED
18 INDIVIDUAL MAY SELF-ADMINISTER UNDER THIS ARTICLE, THE QUALIFIED
19 INDIVIDUAL MUST MAKE AN ORAL REQUEST TO THE ATTENDING PHYSICIAN EITHER IN
20 PERSON OR BY TELEMEDICINE, IF THE ATTENDING PHYSICIAN DETERMINES THE USE
21 OF TELEMEDICINE IS CLINICALLY APPROPRIATE, AND A WRITTEN REQUEST WITH TWO
22 WITNESSES. A PRESCRIPTION FOR MEDICATION MAY NOT BE WRITTEN BEFORE
23 RECEIPT OF THE QUALIFIED INDIVIDUAL'S WRITTEN REQUEST AND MAY NOT BE
24 WRITTEN UNTIL FIFTEEN DAYS AFTER THE INITIAL ORAL REQUEST.

25 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IF THE ATTENDING
26 PHYSICIAN ATTESTS THAT THE QUALIFIED INDIVIDUAL WILL, WITHIN REASONABLE
27 MEDICAL JUDGMENT, DIE WITHIN FIFTEEN DAYS AFTER MAKING THE INITIAL ORAL
28 REQUEST AND THE WRITTEN REQUEST HAS BEEN SUBMITTED, THE FIFTEEN-DAY
29 WAITING PERIOD MAY BE WAIVED.

30 36-3312. Medical records; documentation; requirements

31 ALL OF THE FOLLOWING SHALL BE DOCUMENTED OR FILED IN THE QUALIFIED
32 INDIVIDUAL'S MEDICAL RECORD:

33 1. ALL ORAL REQUESTS BY THE QUALIFIED INDIVIDUAL FOR A PRESCRIPTION
34 FOR MEDICATION.

35 2. ALL WRITTEN REQUESTS BY THE QUALIFIED INDIVIDUAL FOR A
36 PRESCRIPTION FOR MEDICATION.

37 3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
38 DETERMINATION THAT THE QUALIFIED INDIVIDUAL HAS CAPACITY, IS ACTING
39 VOLUNTARILY AND HAS MADE AN INFORMED DECISION.

40 4. THE CONSULTING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS AND
41 VERIFICATION THAT THE QUALIFIED INDIVIDUAL HAS CAPACITY, IS ACTING
42 VOLUNTARILY AND HAS MADE AN INFORMED DECISION.

43 5. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING
44 COUNSELING, IF PERFORMED.

1 7. NOTWITHSTANDING PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION, A
2 HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE PROVIDER TO ANY OF
3 THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE PROVIDER HAS
4 NOTIFIED THE SANCTIONED HEALTH CARE PROVIDER BEFORE PARTICIPATING IN
5 ACTIVITIES COVERED BY THIS ARTICLE THAT THE ACTIONS ARE PROHIBITED:

6 (a) LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP OR ANY OTHER SANCTION
7 PROVIDED PURSUANT TO THE MEDICAL STAFF BYLAWS, POLICIES AND PROCEDURES OF
8 THE SANCTIONING HEALTH CARE PROVIDER IF THE SANCTIONED HEALTH CARE
9 PROVIDER IS A MEMBER OF THE SANCTIONING HEALTH CARE PROVIDER'S MEDICAL
10 STAFF AND PARTICIPATES IN ACTIVITIES COVERED BY THIS ARTICLE WHILE ON THE
11 HEALTH CARE FACILITY PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER, BUT
12 NOT INCLUDING THE PRIVATE MEDICAL OFFICE OF A PHYSICIAN OR OTHER HEALTH
13 CARE PROVIDER.

14 (b) TERMINATION OF LEASE OR OTHER PROPERTY CONTRACT OR OTHER
15 NONMONETARY REMEDIES PROVIDED BY A LEASE CONTRACT, NOT INCLUDING LOSS OR
16 RESTRICTION OF MEDICAL STAFF PRIVILEGES OR EXCLUSION FROM A PROVIDER
17 PANEL, IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN ACTIVITIES
18 COVERED BY THIS ARTICLE WHILE ON THE PREMISES OF THE SANCTIONING HEALTH
19 CARE PROVIDER OR ON PROPERTY THAT IS OWNED BY OR UNDER THE DIRECT CONTROL
20 OF THE SANCTIONING HEALTH CARE PROVIDER.

21 (c) TERMINATION OF CONTRACT OR OTHER NONMONETARY REMEDIES PROVIDED
22 BY CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN
23 ACTIVITIES COVERED BY THIS ARTICLE WHILE ACTING IN THE COURSE AND SCOPE OF
24 THE SANCTIONED HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR
25 INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER. THIS
26 SUBDIVISION DOES NOT PREVENT EITHER OF THE FOLLOWING:

27 (i) A HEALTH CARE PROVIDER FROM PARTICIPATING IN ACTIVITIES COVERED
28 BY THIS ARTICLE WHILE ACTING OUTSIDE THE COURSE AND SCOPE OF THE HEALTH
29 CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR.

30 (ii) A QUALIFIED INDIVIDUAL FROM CONTRACTING WITH THE QUALIFIED
31 INDIVIDUAL'S ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO ACT OUTSIDE
32 THE COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE
33 OR INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

34 8. A HEALTH CARE PROVIDER THAT IMPOSES SANCTIONS PURSUANT TO
35 PARAGRAPH 7 OF THIS SUBSECTION MUST FOLLOW ALL DUE PROCESS AND OTHER
36 PROCEDURES THE SANCTIONING HEALTH CARE PROVIDER MAY HAVE THAT ARE RELATED
37 TO IMPOSING SANCTIONS ON ANOTHER HEALTH CARE PROVIDER.

38 9. ACTION TAKEN PURSUANT TO SECTION 36-3303, 36-3304, 36-3305 OR
39 36-3306 MAY NOT BE THE SOLE BASIS FOR A REPORT OF UNPROFESSIONAL CONDUCT
40 UNDER TITLE 32, CHAPTER 13 OR 17.

41 B. FOR THE PURPOSES OF THIS SECTION:

42 1. "NOTIFY" MEANS THAT A SANCTIONING HEALTH CARE PROVIDER
43 SPECIFICALLY INFORMS A HEALTH CARE PROVIDER IN A SEPARATE STATEMENT IN
44 WRITING OF THE SANCTIONING HEALTH CARE PROVIDER'S POLICY ABOUT
45 PARTICIPATING IN ACTIVITIES COVERED BY THIS ARTICLE.

1 2. "PARTICIPATE IN ACTIVITIES COVERED BY THIS ARTICLE":
2 (a) MEANS ANY OF THE FOLLOWING:
3 (i) TO PERFORM THE DUTIES OF AN ATTENDING PHYSICIAN PURSUANT TO
4 SECTION 36-3304 OR A CONSULTING PHYSICIAN PURSUANT TO SECTION 36-3305 OR
5 THE COUNSELING FUNCTION PURSUANT TO SECTION 36-3306.
6 (ii) TO PERFORM THE DUTIES OF A MENTAL HEALTH PROFESSIONAL IF A
7 REFERRAL TO ONE IS MADE.
8 (iii) TO DELIVER THE PRESCRIPTION FOR MEDICATION, TO DISPENSE THE
9 PRESCRIBED MEDICATION OR TO DELIVER THE DISPENSED MEDICATION PURSUANT TO
10 THIS ARTICLE.
11 (iv) TO BE PRESENT WHEN THE QUALIFIED INDIVIDUAL TAKES THE
12 MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE.
13 (b) DOES NOT INCLUDE MAKING AN INITIAL DETERMINATION THAT AN
14 INDIVIDUAL HAS A TERMINAL DISEASE AND INFORMING THE INDIVIDUAL OF THE
15 MEDICAL PROGNOSIS, PROVIDING INFORMATION ABOUT THIS ARTICLE TO AN
16 INDIVIDUAL ON THE INDIVIDUAL'S REQUEST OR PROVIDING AN INDIVIDUAL, ON THE
17 INDIVIDUAL'S REQUEST, WITH A REFERRAL TO ANOTHER HEALTH CARE PROVIDER FOR
18 THE PURPOSE OF ASSESSING MEDICAL AID IN DYING OR AN INDIVIDUAL CONTRACTING
19 WITH THE INDIVIDUAL'S ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO ACT
20 OUTSIDE OF THE COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S CAPACITY AS
21 AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE
22 PROVIDER.
23 36-3320. Death certificates
24 A. UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR
25 THE DIRECTOR OF THE HEALTH CARE FACILITY WHERE A QUALIFIED INDIVIDUAL
26 TERMINATED THE QUALIFIED INDIVIDUAL'S LIFE PURSUANT TO THIS ARTICLE SHALL
27 SIGN THE DEATH CERTIFICATE OF A QUALIFIED INDIVIDUAL WHO OBTAINED AND
28 SELF-ADMINISTERED A PRESCRIPTION FOR MEDICATION PURSUANT TO THIS ARTICLE.
29 B. WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE, THE
30 CAUSE OF DEATH MUST BE LISTED AS THE UNDERLYING TERMINAL ILLNESS. A
31 QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING MEDICATION PRESCRIBED
32 PURSUANT TO THIS ARTICLE MAY NOT BE INCLUDED ON THE DEATH CERTIFICATE.
33 36-3321. Violations; classification; liability
34 A. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT THE
35 QUALIFIED INDIVIDUAL'S AUTHORIZATION, WILFULLY ALTERS OR FORGES A REQUEST
36 FOR A PRESCRIPTION FOR MEDICATION OR CONCEALS OR DESTROYS A RESCISSION OF
37 THAT REQUEST WITH THE INTENT OR EFFECT OF CAUSING THE QUALIFIED
38 INDIVIDUAL'S DEATH.
39 B. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO COERCES OR EXERTS
40 UNDUE INFLUENCE ON A QUALIFIED INDIVIDUAL WITH A TERMINAL ILLNESS TO
41 REQUEST A PRESCRIPTION FOR MEDICATION PURSUANT TO THIS ARTICLE WITH THE
42 INTENT OR EFFECT OF CAUSING THE QUALIFIED INDIVIDUAL'S DEATH.
43 C. A PERSON IS GUILTY OF A CLASS 2 FELONY WHO, WITHOUT
44 AUTHORIZATION OF THE QUALIFIED INDIVIDUAL, WILFULLY ALTERS, FORGES,
45 CONCEALS OR DESTROYS AN INSTRUMENT, THE REINSTATEMENT OR REVOCATION OF AN

1 INSTRUMENT OR ANY OTHER EVIDENCE OR DOCUMENT REFLECTING THE QUALIFIED
2 INDIVIDUAL'S DESIRES AND INTERESTS, WITH THE INTENT AND EFFECT OF CAUSING
3 A WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES OR ARTIFICIALLY
4 ADMINISTERED NUTRITION AND HYDRATION THAT HASTENS THE DEATH OF THE
5 QUALIFIED INDIVIDUAL.

6 D. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A PERSON IS
7 GUILTY OF A CLASS 1 MISDEMEANOR WHO, WITHOUT AUTHORIZATION OF THE
8 QUALIFIED INDIVIDUAL, WILFULLY ALTERS, FORGES OR DESTROYS AN INSTRUMENT,
9 OR ANY OTHER EVIDENCE OR DOCUMENT REFLECTING THE QUALIFIED INDIVIDUAL'S
10 DESIRES AND INTERESTS WITH THE INTENT OR EFFECT OF AFFECTING A HEALTH CARE
11 DECISION OF THE QUALIFIED INDIVIDUAL.

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

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

18 36-3322. Claims by governmental entity; costs

19 A GOVERNMENTAL ENTITY THAT INCURS COSTS RESULTING FROM A QUALIFIED
20 INDIVIDUAL TERMINATING THE QUALIFIED INDIVIDUAL'S LIFE PURSUANT TO THIS
21 ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE QUALIFIED
22 INDIVIDUAL TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO
23 ENFORCING THE CLAIM.

24 36-3323. Prescription for medication; form of request

25 A REQUEST FOR MEDICATION AS AUTHORIZED BY THIS ARTICLE SHALL BE IN
26 SUBSTANTIALLY THE FOLLOWING FORM:

27 REQUEST FOR MEDICATION TO END MY LIFE
28 IN A HUMANE AND DIGNIFIED MANNER

29 I, (NAME OF INDIVIDUAL), AM AN ADULT OF SOUND MIND.

30 I AM SUFFERING FROM (DESCRIPTION OF ILLNESS), WHICH MY
31 ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS.

32 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
33 PROGNOSIS, THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE
34 MEDICATION TO BE PRESCRIBED AND THE PROBABLE RESULT OF TAKING
35 THE MEDICATION. I HAVE BEEN INFORMED OF THE FEASIBLE
36 ALTERNATIVES AND CONCURRENT OR ADDITIONAL TREATMENT
37 OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE,
38 HOSPICE CARE, PAIN CONTROL AND DISEASE-DIRECTED TREATMENT
39 OPTIONS, AS WELL AS THE RISKS AND BENEFITS OF EACH
40 ALTERNATIVE.

41 I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE
42 MEDICATION THAT WILL END MY LIFE IN A HUMANE AND DIGNIFIED
43 MANNER, SHOULD I CHOOSE TO SELF-ADMINISTER IT.

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 Sec. 2. Severability

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