



HOUSE BILL No. 6205

November 14, 1996, Introduced by Reps. Dolan, Gilmer, Wallace, Munsell, Vaughn, Schroer, Dobb, LaForge, Middleton, Brewer, Bennane, Berman and Brater and referred to the Committee on Health Policy.

A bill to amend the title and sections 16221 and 16226 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," sections 16221 and 16226 as amended by Act No. 273 of the Public Acts of 1996, being sections 333.16221 and 333.16226 of the Michigan Compiled Laws; to add part 56b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 16221 and 16226 of Act
2 No. 368 of the Public Acts of 1978, sections 16221 and 16226 as
3 amended by Act No. 273 of the Public Acts of 1996, being sections
4 333.16221 and 333.16226 of the Michigan Compiled Laws, are
5 amended and part 56b is added to read as follows:

TITLE

1
2 An act to protect and promote the public health; to codify,
3 revise, consolidate, classify, and add to the laws relating to
4 public health; to provide for the prevention and control of dis-
5 eases and disabilities; to provide for the classification, admin-
6 istration, regulation, financing, and maintenance of personal,
7 environmental, and other health services and activities; to
8 create or continue, and prescribe the powers and duties of,
9 departments, boards, commissions, councils, committees, task
10 forces, and other agencies; to prescribe the powers and duties of
11 governmental entities and officials; to regulate occupations,
12 facilities, and agencies affecting the public health; to regulate
13 health maintenance organizations and certain third party adminis-
14 trators and insurers; to provide for the imposition of a regula-
15 tory fee; to promote the efficient and economical delivery of
16 health care services, to provide for the appropriate utilization
17 of health care facilities and services, and to provide for the
18 closure of hospitals or consolidation of hospitals or services;
19 to provide for the collection and use of data and information; to
20 provide for the transfer of property; to provide certain immunity
21 from liability; to regulate and prohibit the sale and offering
22 for sale of drug paraphernalia under certain circumstances; TO
23 PROVIDE A PROCESS THAT ALLOWS A TERMINALLY ILL PATIENT TO REQUEST
24 AND RECEIVE FROM A PHYSICIAN A PRESCRIPTION FOR MEDICATION TO END
25 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER; to provide for
26 penalties and remedies; to provide for sanctions for violations
27 of this act and local ordinances; ~~to repeal certain acts and~~

~~1 parts of acts, to repeal certain parts of this act, and to repeal~~
~~2 certain parts of this act on specific dates~~ AND TO REPEAL ACTS
3 AND PARTS OF ACTS.

4 PART 56B.

5 ENDING LIFE IN A HUMANE AND DIGNIFIED MANNER

6 SEC. 5671. AS USED IN THIS PART:

7 (A) "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS PRI-
8 MARY RESPONSIBILITY FOR THE CARE OF A PATIENT AND TREATMENT OF
9 THE PATIENT'S TERMINAL DISEASE.

10 (B) "CAPABLE" MEANS NOT INCAPABLE.

11 (C) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALI-
12 FIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS
13 AND PROGNOSIS REGARDING A PATIENT'S TERMINAL DISEASE.14 (D) "COUNSELING" MEANS A CONSULTATION BETWEEN A PATIENT AND
15 A LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST FOR THE PURPOSE
16 OF DETERMINING WHETHER THE PATIENT IS SUFFERING FROM A PSYCHIAT-
17 RIC OR PSYCHOLOGICAL DISORDER INCLUDING, BUT NOT LIMITED TO,
18 DEPRESSION, THAT MAY CAUSE IMPAIRED JUDGMENT.19 (E) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, REGIS-
20 TERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY THE LAW OF THIS
21 STATE TO ADMINISTER HEALTH CARE IN THE ORDINARY COURSE OF BUSI-
22 NESS OR PRACTICE OF A HEALTH PROFESSION. HEALTH CARE PROVIDER
23 INCLUDES A HEALTH FACILITY.24 (F) "HEALTH FACILITY" MEANS A HEALTH FACILITY OR AGENCY
25 LICENSED UNDER ARTICLE 17.26 (G) "INCAPABLE" MEANS THAT, IN THE OPINION OF A COURT OR IN
27 THE OPINION OF THE PATIENT'S ATTENDING PHYSICIAN OR CONSULTING

1 PHYSICIAN, A PATIENT LACKS THE ABILITY TO MAKE AND COMMUNICATE
2 HEALTH CARE DECISIONS TO A HEALTH CARE PROVIDER, INCLUDING COMMU-
3 NICATION THROUGH INDIVIDUALS FAMILIAR WITH THE PATIENT'S MANNER
4 OF COMMUNICATING IF THOSE INDIVIDUALS ARE AVAILABLE.

5 (H) "INFORMED DECISION" MEANS A DECISION BY A QUALIFIED
6 PATIENT TO REQUEST AND OBTAIN A PRESCRIPTION FOR MEDICATION TO
7 END HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER THAT IS
8 BASED ON AN APPRECIATION OF THE RELEVANT FACTS AND IS MADE AFTER
9 BEING FULLY INFORMED BY THE QUALIFIED PATIENT'S ATTENDING PHYSI-
10 CIAN OF ALL OF THE FOLLOWING:

11 (i) HIS OR HER MEDICAL DIAGNOSIS.

12 (ii) HIS OR HER PROGNOSIS.

13 (iii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICA-
14 TION TO BE PRESCRIBED.

15 (iv) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE
16 PRESCRIBED.

17 (v) THE FEASIBLE ALTERNATIVES TO TAKING THE MEDICATION PRE-
18 SCRIBED, INCLUDING, BUT NOT LIMITED TO, COMFORT CARE, HOSPICE
19 CARE, AND PAIN CONTROL.

20 (I) "MEDICALLY CONFIRMED" MEANS THE MEDICAL OPINION OF THE
21 ATTENDING PHYSICIAN IS CONFIRMED BY A CONSULTING PHYSICIAN WHO
22 EXAMINES THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS.

23 (J) "PATIENT" MEANS AN ADULT WHO IS UNDER THE CARE OF A PHY-
24 SICIAN AND WHO MAKES A REQUEST FOR MEDICATION UNDER THIS PART.

25 (K) "PHYSICIAN" MEANS AN ALLOPATHIC OR OSTEOPATHIC PHYSICIAN
26 LICENSED TO ENGAGE IN THE PRACTICE OF MEDICINE OR THE PRACTICE OF
27 OSTEOPATHIC MEDICINE AND SURGERY UNDER ARTICLE 15.

1 (L) "QUALIFIED PATIENT" MEANS A CAPABLE ADULT PATIENT WHO IS
2 A RESIDENT OF THIS STATE AND WHO SATISFIES THE REQUIREMENTS OF
3 THIS PART IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICATION TO END
4 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER.

5 (M) "REQUEST" MEANS A WRITTEN REQUEST FOR MEDICATION TO END
6 THE REQUESTING INDIVIDUAL'S LIFE IN A HUMANE AND DIGNIFIED MANNER
7 THAT MEETS THE REQUIREMENTS OF SECTION 5673(1).

8 (N) "TERMINAL ILLNESS" MEANS AN INCURABLE AND IRREVERSIBLE
9 DISEASE THAT IS MEDICALLY CONFIRMED AND WILL, WITHIN REASONABLE
10 MEDICAL JUDGMENT, PRODUCE DEATH WITHIN 6 MONTHS OR LESS.

11 SEC. 5672. (1) AN ADULT WHO MEETS ALL OF THE FOLLOWING
12 REQUIREMENTS AND THE REQUIREMENTS OF SUBSECTION (2) IS A QUALI-
13 FIED PATIENT AND MAY MAKE A WRITTEN REQUEST UNDER THIS PART FOR
14 MEDICATION FOR THE PURPOSE OF ENDING HIS OR HER LIFE IN A HUMANE
15 AND DIGNIFIED MANNER IN ACCORDANCE WITH THIS PART:

16 (A) IS CAPABLE.

17 (B) IS A RESIDENT OF THIS STATE.

18 (C) IS DETERMINED BY THE ADULT'S ATTENDING PHYSICIAN AND
19 CONSULTING PHYSICIAN TO BE SUFFERING FROM A TERMINAL ILLNESS.

20 (D) HAS VOLUNTARILY EXPRESSED HIS OR HER WISH TO DIE BY
21 MEANS OF MAKING A REQUEST UNDER THIS PART.

22 (2) BEFORE AN ADULT MAKES A REQUEST UNDER THIS PART FOR MED-
23 ICATION FOR THE PURPOSE OF ENDING HIS OR HER LIFE IN A HUMANE AND
24 DIGNIFIED MANNER, HE OR SHE SHALL UNDERGO COUNSELING. AFTER THE
25 COUNSELING, THE INDIVIDUAL SHALL OBTAIN FROM THE PSYCHIATRIST OR
26 PSYCHOLOGIST PERFORMING THE COUNSELING A STATEMENT IN WRITING
27 THAT THE INDIVIDUAL IS NOT SUFFERING FROM A PSYCHIATRIC OR

1 PSYCHOLOGICAL DISORDER OR CONDITION INCLUDING, BUT NOT LIMITED
2 TO, DEPRESSION, THAT MIGHT CAUSE IMPAIRED JUDGMENT.

3 SEC. 5673. (1) A VALID WRITTEN REQUEST FOR MEDICATION UNDER
4 THIS PART SHALL BE IN SUBSTANTIALLY THE FORM DESCRIBED IN SECTION
5 5674, SIGNED AND DATED BY THE QUALIFIED PATIENT, AND WITNESSED BY
6 AT LEAST 2 INDIVIDUALS WHO, IN THE PRESENCE OF THE QUALIFIED
7 PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF
8 THE QUALIFIED PATIENT IS CAPABLE, IS ACTING VOLUNTARILY, AND IS
9 NOT BEING COERCED TO SIGN THE REQUEST.

10 (2) AT LEAST 1 OF THE WITNESSES REQUIRED UNDER SUBSECTION
11 (1) SHALL NOT BE 1 OR MORE OF THE FOLLOWING:

12 (A) A RELATIVE OF THE QUALIFIED PATIENT BY BLOOD, MARRIAGE,
13 OR ADOPTION.

14 (B) ENTITLED AT THE TIME THE REQUEST IS SIGNED TO HAVE CON-
15 TROL OVER A PORTION OF THE ESTATE OF THE QUALIFIED PATIENT UPON
16 THE QUALIFIED PATIENT'S DEATH UNDER A WILL OR TRUST, OR BY OPERA-
17 TION OF LAW.

18 (C) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTH FACILITY
19 WHERE THE QUALIFIED PATIENT IS RECEIVING MEDICAL TREATMENT OR IS
20 A RESIDENT.

21 (3) THE QUALIFIED PATIENT'S ATTENDING PHYSICIAN AT THE TIME
22 THE REQUEST IS SIGNED SHALL NOT BE A WITNESS.

23 (4) IF THE QUALIFIED PATIENT IS A PATIENT IN A HEALTH FACIL-
24 ITY THAT IS A NURSING HOME, HOME FOR THE AGED, HOSPITAL LONG-TERM
25 CARE UNIT, OR COUNTY MEDICAL CARE FACILITY AT THE TIME THE
26 REQUEST IS MADE, 1 OF THE WITNESSES REQUIRED UNDER SUBSECTION (1)
27 SHALL BE AN INDIVIDUAL DESIGNATED BY THE HEALTH FACILITY AND

1 HAVING THE QUALIFICATIONS SPECIFIED BY THE DEPARTMENT OF
2 COMMUNITY HEALTH BY RULE. THE DEPARTMENT OF COMMUNITY HEALTH
3 SHALL PROMULGATE RULES THAT PRESCRIBE WITNESS QUALIFICATIONS FOR
4 PURPOSES OF THIS SUBSECTION.

5 SEC. 5674. A REQUEST SHALL BE IN SUBSTANTIALLY THE FOLLOW-
6 ING FORM:

7 "REQUEST FOR MEDICATION

8 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

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

10 I AM SUFFERING FROM _____, WHICH MY ATTENDING PHY-
11 SICIAN HAS DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN
12 MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

13 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY PROGNOSIS,
14 THE NATURE OF THE MEDICATION TO BE PRESCRIBED AND ITS POTENTIAL
15 ASSOCIATED RISKS, THE EXPECTED RESULT OF TAKING THE MEDICATION,
16 AND THE FEASIBLE ALTERNATIVES, INCLUDING COMFORT CARE, HOSPICE
17 CARE, AND PAIN CONTROL. I HAVE UNDERGONE COUNSELING AND HAVE
18 PRESENTED TO MY ATTENDING PHYSICIAN A WRITTEN STATEMENT FROM MY
19 PSYCHIATRIST OR PSYCHOLOGIST THAT I AM NOT SUFFERING FROM A PSY-
20 CHIATRIC OR PSYCHOLOGICAL CONDITION INCLUDING, BUT NOT LIMITED
21 TO, DEPRESSION, THAT MIGHT IMPAIR MY JUDGMENT.

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

24 INITIAL ONE:

25 _____ I HAVE INFORMED MY FAMILY OF MY DECISION AND TAKEN
26 THEIR OPINIONS INTO CONSIDERATION.

1 _____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY
2 DECISION.

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

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

6 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST, AND I EXPECT
7 TO DIE WHEN I TAKE THE MEDICATION TO BE PRESCRIBED.

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

10 SIGNED: _____

11 DATED: _____

12 DECLARATION OF WITNESSES

13 WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

14 (A) IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF
15 IDENTITY.

16 (B) SIGNED THIS REQUEST IN OUR PRESENCE.

17 (C) APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, FRAUD,
18 OR UNDUE INFLUENCE.

19 (D) IS NOT A PATIENT FOR WHOM EITHER OF US IS ATTENDING
20 PHYSICIAN.

21 WITNESS 1 _____ DATE _____

22 WITNESS 2 _____ DATE _____".

23 SEC. 5675. A QUALIFIED PATIENT'S ATTENDING PHYSICIAN SHALL
24 DO ALL OF THE FOLLOWING IN RELATION TO A REQUEST:

25 (A) MAKE THE INITIAL DETERMINATION OF WHETHER THE PATIENT
26 HAS A TERMINAL ILLNESS, IS CAPABLE, AND MAKES THE REQUEST
27 VOLUNTARILY.

1 (B) INFORM THE QUALIFIED PATIENT OF ALL OF THE FOLLOWING:

2 (i) THAT THE ATTENDING PHYSICIAN HAS DIAGNOSED THE QUALIFIED
3 PATIENT AS HAVING A TERMINAL ILLNESS.

4 (ii) HIS OR HER PROGNOSIS.

5 (iii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICA-
6 TION TO BE PRESCRIBED UNDER THE REQUEST.

7 (iv) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRE-
8 SCRIBED UNDER THE REQUEST.

9 (v) THE FEASIBLE ALTERNATIVES TO MAKING A REQUEST, INCLUD-
10 ING, BUT NOT LIMITED TO, COMFORT CARE, HOSPICE CARE, AND PAIN
11 CONTROL.

12 (C) REFER THE QUALIFIED PATIENT TO A CONSULTING PHYSICIAN
13 FOR MEDICAL CONFIRMATION OF THE DIAGNOSIS THAT THE QUALIFIED
14 PATIENT HAS A TERMINAL ILLNESS, AND FOR A DETERMINATION THAT THE
15 QUALIFIED PATIENT IS CAPABLE AND IS ACTING VOLUNTARILY.

16 (D) REQUEST THAT THE QUALIFIED PATIENT NOTIFY HIS OR HER
17 NEXT OF KIN THAT THE QUALIFIED PATIENT HAS MADE OR INTENDS TO
18 MAKE A REQUEST.

19 (E) INFORM THE QUALIFIED PATIENT AT THE TIME THE REQUEST IS
20 MADE THAT HE OR SHE HAS AN OPPORTUNITY TO RESCIND THE REQUEST AT
21 ANY TIME AND IN ANY MANNER. THE ATTENDING PHYSICIAN ALSO SHALL
22 OFFER THE QUALIFIED PATIENT THE OPPORTUNITIES TO RESCIND THE
23 REQUEST PROVIDED BY SECTION 5679.

24 (F) VERIFY, IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR
25 MEDICATION UNDER THIS ACT, THAT THE QUALIFIED PATIENT IS MAKING
26 AN INFORMED DECISION.

1 (G) FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENTS OF
2 SECTION 5681.

3 (H) ENSURE THAT ALL APPROPRIATE AND REQUIRED STEPS ARE CAR-
4 RIED OUT IN ACCORDANCE WITH THIS PART BEFORE WRITING A PRESCRIP-
5 TION FOR MEDICATION TO ENABLE A QUALIFIED PATIENT TO END HIS OR
6 HER LIFE IN A HUMANE AND DIGNIFIED MANNER.

7 SEC. 5676. AFTER A QUALIFIED PATIENT HAS BEEN REFERRED TO A
8 CONSULTING PHYSICIAN UNDER SECTION 5675(C), THE CONSULTING PHYSI-
9 CIAN SHALL EXAMINE THE QUALIFIED PATIENT AND HIS OR HER RELEVANT
10 MEDICAL RECORDS. IF THE CONSULTING PHYSICIAN CONCURS WITH THE
11 ATTENDING PHYSICIAN, HE OR SHE SHALL CONFIRM, IN WRITING, THE
12 ATTENDING PHYSICIAN'S DIAGNOSIS THAT THE QUALIFIED PATIENT IS
13 SUFFERING FROM A TERMINAL ILLNESS. THE CONSULTING PHYSICIAN
14 SHALL ALSO VERIFY THAT THE QUALIFIED PATIENT IS CAPABLE, IS
15 ACTING VOLUNTARILY, AND IS MAKING AN INFORMED DECISION.

16 SEC. 5677. AN ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDI-
17 CATION TO END THE LIFE OF A QUALIFIED PATIENT IN A HUMANE AND
18 DIGNIFIED MANNER UNDER THIS PART UNLESS THE ATTENDING PHYSICIAN
19 DETERMINES THAT THE QUALIFIED PATIENT HAS MADE AN INFORMED
20 DECISION. AS REQUIRED UNDER SECTION 5675(F), IMMEDIATELY BEFORE
21 WRITING A PRESCRIPTION FOR MEDICATION UNDER THIS PART, THE
22 ATTENDING PHYSICIAN SHALL VERIFY THAT THE QUALIFIED PATIENT IS
23 MAKING AN INFORMED DECISION.

24 SEC. 5678. IF AN ATTENDING PHYSICIAN REQUESTS A QUALIFIED
25 QUALIFIED PATIENT TO NOTIFY HIS OR HER NEXT OF KIN UNDER SECTION
26 5675(D) THAT THE QUALIFIED PATIENT HAS MADE OR INTENDS TO MAKE A
27 REQUEST UNDER THIS PART, THE ATTENDING PHYSICIAN SHALL NOT DENY

1 THE REQUEST SOLELY BECAUSE THE PATIENT DECLINES OR IS UNABLE TO
2 SO NOTIFY HIS OR HER NEXT OF KIN.

3 SEC. 5679. (1) A QUALIFIED PATIENT SHALL MAKE A REQUEST TO
4 HIS OR HER ATTENDING PHYSICIAN BOTH ORALLY AND IN WRITING, AND
5 SHALL REITERATE THE REQUEST TO HIS OR HER ATTENDING PHYSICIAN
6 BOTH ORALLY AND IN WRITING NOT LESS THAN 15 DAYS AFTER MAKING THE
7 INITIAL REQUEST. THE QUALIFIED PATIENT SHALL MAKE A FINAL ORAL
8 REQUEST NOT LESS THAN 15 DAYS AFTER MAKING THE SECOND ORAL AND
9 WRITTEN REQUEST.

10 (2) AT THE TIME A QUALIFIED PATIENT MAKES HIS OR HER SECOND
11 ORAL AND WRITTEN REQUEST, AND AT THE TIME THE QUALIFIED PATIENT
12 MAKES HIS OR HER FINAL ORAL REQUEST, AS REQUIRED UNDER SUBSECTION
13 (1), THE ATTENDING PHYSICIAN SHALL OFFER THE PATIENT AN OPPORTU-
14 NITY TO RESCIND THE REQUEST.

15 (3) AN ATTENDING PHYSICIAN SHALL NOT WRITE A PRESCRIPTION
16 UNDER THIS PART UNTIL NOT LESS THAN 48 HOURS HAVE ELAPSED AFTER
17 THE QUALIFIED PATIENT'S FINAL ORAL REQUEST AND UNTIL THE ATTEND-
18 ING PHYSICIAN HAS OFFERED THE QUALIFIED PATIENT THE OPPORTUNITIES
19 TO RESCIND THE REQUEST AS REQUIRED UNDER SUBSECTION (2).

20 SEC. 5680. A QUALIFIED PATIENT MAY RESCIND HIS OR HER
21 REQUEST UNDER THIS PART AT ANY TIME AND IN ANY MANNER BY WHICH HE
22 OR SHE CAN COMMUNICATE AN INTENT TO RESCIND THE REQUEST, WITHOUT
23 REGARD TO HIS OR HER MENTAL STATE.

24 SEC. 5681. AN ATTENDING PHYSICIAN SHALL DOCUMENT IN WRITING
25 AND FILE ALL OF THE FOLLOWING IN A QUALIFIED PATIENT'S MEDICAL
26 RECORD:

1 (A) EACH ORAL REQUEST MADE BY THE QUALIFIED PATIENT UNDER
2 THIS PART.

3 (B) EACH WRITTEN REQUEST MADE BY THE QUALIFIED PATIENT UNDER
4 THIS PART.

5 (C) THE ATTENDING PHYSICIAN'S DIAGNOSIS THAT THE QUALIFIED
6 PATIENT HAS A TERMINAL ILLNESS, THE PROGNOSIS, AND THE DETERMINA-
7 TION THAT THE QUALIFIED PATIENT IS CAPABLE, IS ACTING VOLUNTARI-
8 LY, AND IS MAKING AN INFORMED DECISION.

9 (D) THE CONSULTING PHYSICIAN'S CONFIRMATION OF THE ATTENDING
10 PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, AND THE CONSULTING
11 PHYSICIAN'S INDEPENDENT VERIFICATION THAT THE PATIENT IS CAPABLE,
12 IS ACTING VOLUNTARILY, AND IS MAKING AN INFORMED DECISION.

13 (E) THE WRITTEN STATEMENT MADE BY THE PATIENT'S PSYCHIATRIST
14 OR PSYCHOLOGIST AND REQUIRED UNDER SECTION 5672(2).

15 (F) THE ATTENDING PHYSICIAN'S OFFERS TO THE PATIENT TO
16 RESCIND THE PATIENT'S REQUEST AS REQUIRED BY SECTION 5679.

17 (G) A NOTE BY THE ATTENDING PHYSICIAN INDICATING THAT ALL
18 REQUIREMENTS UNDER THIS PART HAVE BEEN MET AND INDICATING THE
19 STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING, BUT NOT LIMITED
20 TO, A NOTATION OF THE MEDICATION PRESCRIBED.

21 SEC. 5682. AN ATTENDING PHYSICIAN SHALL NOT GRANT A REQUEST
22 UNDER THIS PART UNLESS THE INDIVIDUAL MAKING THE REQUEST IS A
23 MICHIGAN RESIDENT.

24 SEC. 5683. (1) THE DEPARTMENT OF COMMUNITY HEALTH SHALL
25 ANNUALLY REVIEW A SAMPLE OF MEDICAL RECORDS MAINTAINED AS
26 REQUIRED BY THIS PART. UPON REQUEST, AN ATTENDING PHYSICIAN MAY
27 RELEASE TO THE DEPARTMENT OF COMMUNITY HEALTH STATISTICAL

1 INFORMATION CONTAINED IN MEDICAL RECORDS MAINTAINED UNDER THIS
2 PART, SO LONG AS THE INFORMATION DOES NOT CONTAIN PERSONAL IDEN-
3 TIFIERS THAT MAY IDENTIFY THE QUALIFIED PATIENT.

4 (2) THE DEPARTMENT OF COMMUNITY HEALTH SHALL PROMULGATE
5 RULES TO FACILITATE THE COLLECTION OF INFORMATION UNDER SUBSEC-
6 TION (1) REGARDING COMPLIANCE WITH THIS PART. EXCEPT AS PROVIDED
7 IN SUBSECTION (3), THE INFORMATION COLLECTED UNDER SUBSECTION (1)
8 IS NOT A PUBLIC RECORD, SHALL NOT BE MADE AVAILABLE FOR INSPEC-
9 TION BY THE PUBLIC, AND IS EXEMPT FROM DISCLOSURE UNDER THE FREE-
10 DOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976,
11 BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS.

12 (3) THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE
13 PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED
14 UNDER THIS SECTION.

15 SEC. 5684. (1) A PROVISION IN A CONTRACT, WILL, OR OTHER
16 AGREEMENT, WHETHER WRITTEN OR ORAL, IS INVALID TO THE EXTENT THE
17 PROVISION WOULD AFFECT WHETHER AN INDIVIDUAL MAY MAKE OR RESCIND
18 A REQUEST FOR MEDICATION TO END HIS OR HER LIFE IN A HUMANE AND
19 DIGNIFIED MANNER UNDER THIS PART.

20 (2) AN OBLIGATION OWING UNDER A CURRENTLY EXISTING CONTRACT
21 SHALL NOT BE CONDITIONED OR AFFECTED BY THE MAKING OR RESCINDING
22 OF A REQUEST BY AN INDIVIDUAL UNDER THIS PART.

23 SEC. 5685. THE SALE, PROCUREMENT, OR ISSUANCE OF A LIFE,
24 HEALTH, OR ACCIDENT INSURANCE POLICY OR CERTIFICATE OR AN ANNUITY
25 POLICY OR THE RATE CHARGED FOR A SUCH A POLICY OR CERTIFICATE
26 SHALL NOT BE CONDITIONED UPON OR AFFECTED BY THE MAKING OR
27 RESCINDING OF A REQUEST BY AN INDIVIDUAL UNDER THIS PART. A

1 QUALIFIED PATIENT'S ACT OF INGESTING MEDICATION TO END HIS OR HER
2 LIFE IN A HUMANE AND DIGNIFIED MANNER PURSUANT TO A REQUEST MADE
3 UNDER THIS PART DOES NOT HAVE AN EFFECT UPON A LIFE, HEALTH, OR
4 ACCIDENT INSURANCE POLICY OR CERTIFICATE OR AN ANNUITY POLICY.

5 SEC. 5686. THIS PART DOES NOT AUTHORIZE A PHYSICIAN OR
6 ANOTHER INDIVIDUAL TO END A PATIENT'S LIFE BY LETHAL INJECTION,
7 MERCY KILLING, OR ACTIVE EUTHANASIA. AN ACTION TAKEN BY A PHYSI-
8 CIAN OR A QUALIFIED PATIENT IN ACCORDANCE WITH THIS PART DOES
9 NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY
10 KILLING, EUTHANASIA, OR HOMICIDE UNDER THE LAW.

11 SEC. 5687. EXCEPT AS PROVIDED IN SECTION 5688:

12 (A) A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY
13 OR ADMINISTRATIVE DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD
14 FAITH AND IN COMPLIANCE WITH THIS PART, INCLUDING, BUT NOT
15 LIMITED TO, BEING PRESENT WHEN A QUALIFIED PATIENT TAKES THE PRE-
16 SCRIBED MEDICATION TO END HIS OR HER LIFE IN A HUMANE AND DIGNI-
17 FIED MANNER UNDER THIS PART. IN ADDITION, A HEALTH CARE PROVIDER
18 WHO CLAIMS THE IMMUNITY PROVIDED BY THIS SUBDIVISION MUST HAVE
19 CONFORMED HIS OR HER CONDUCT UNDER THIS PART TO THE APPLICABLE
20 STANDARD OF PRACTICE.

21 (B) A PROFESSIONAL ORGANIZATION OR ASSOCIATION OR A HEALTH
22 FACILITY OR OTHER HEALTH CARE PROVIDER SHALL NOT SUBJECT A PERSON
23 TO CENSURE, DISCIPLINE, SUSPENSION, LOSS OF LICENSE, LOSS OF
24 PRIVILEGES, LOSS OF MEMBERSHIP, OR OTHER PENALTY FOR PARTICIPAT-
25 ING OR REFUSING TO PARTICIPATE IN GOOD FAITH COMPLIANCE WITH THIS
26 PART.

1 (C) A REQUEST BY A QUALIFIED PATIENT FOR, OR PROVISION BY AN
2 ATTENDING PHYSICIAN OF, MEDICATION IN GOOD FAITH COMPLIANCE WITH
3 THIS PART DOES NOT CONSTITUTE NEGLIGENCE FOR ANY PURPOSE OF LAW
4 AND DOES NOT PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A
5 GUARDIAN OR CONSERVATOR.

6 (D) A HEALTH FACILITY OR OTHER HEALTH CARE PROVIDER IS NOT
7 UNDER A LEGAL DUTY TO PARTICIPATE IN THE PROVISION TO A QUALIFIED
8 PATIENT OF MEDICATION TO END HIS OR HER LIFE IN A HUMANE AND DIG-
9 NIFIED MANNER UNDER THIS PART. IF A HEALTH FACILITY OR OTHER
10 HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT A QUALI-
11 FIED PATIENT'S REQUEST UNDER THIS PART, AND THE QUALIFIED PATIENT
12 TRANSFERS HIS OR HER CARE TO ANOTHER HEALTH FACILITY OR OTHER
13 HEALTH CARE PROVIDER, THE PRIOR HEALTH FACILITY OR OTHER HEALTH
14 CARE PROVIDER SHALL TRANSFER, UPON REQUEST, A COPY OF THE QUALI-
15 FIED PATIENT'S RELEVANT MEDICAL RECORDS TO THE OTHER HEALTH
16 FACILITY OR OTHER HEALTH CARE PROVIDER.

17 SEC. 5688. (1) AN INDIVIDUAL WHO, WITHOUT AUTHORIZATION OF
18 THE QUALIFIED PATIENT, WILLFULLY ALTERS OR FORGES A REQUEST MADE
19 BY THE QUALIFIED PATIENT UNDER THIS PART OR CONCEALS OR DESTROYS
20 A RESCISSION OF THAT REQUEST WITH THE INTENT OR EFFECT OF CAUSING
21 THE QUALIFIED PATIENT'S DEATH IS GUILTY OF A FELONY, PUNISHABLE
22 BY IMPRISONMENT FOR A TERM OF YEARS UP TO LIFE.

23 (2) A PERSON WHO COERCES OR EXERTS UNDUE INFLUENCE ON A
24 QUALIFIED PATIENT TO MAKE A REQUEST UNDER THIS PART, OR TO
25 DESTROY A RESCISSION OF A REQUEST, IS GUILTY OF A FELONY, PUNISH-
26 ABLE BY IMPRISONMENT FOR A TERM OF YEARS UP TO LIFE.

1 (3) AN INDIVIDUAL OTHER THAN A PHYSICIAN WHO PRESCRIBES
2 MEDICATION IN A MANNER AND FOR A PURPOSE THAT IS THE SAME OR
3 SUBSTANTIALLY SIMILAR TO THE MANNER AND PURPOSE PRESCRIBED BY
4 THIS PART IS GUILTY OF A FELONY.

5 (4) THIS SECTION DOES NOT LIMIT FURTHER LIABILITY FOR CIVIL
6 DAMAGES RESULTING FROM OTHER NEGLIGENT CONDUCT OR INTENTIONAL
7 MISCONDUCT BY AN INDIVIDUAL.

8 (5) THE PENALTIES IMPOSED UNDER THIS SECTION DO NOT PRECLUDE
9 CRIMINAL PENALTIES APPLICABLE UNDER OTHER LAW FOR CONDUCT THAT IS
10 INCONSISTENT WITH THIS PART.

11 Sec. 16221. The department may investigate activities
12 related to the practice of a health profession by a licensee, a
13 registrant, or an applicant for licensure or registration. The
14 department may hold hearings, administer oaths, and order rele-
15 vant testimony to be taken and shall report its findings to the
16 appropriate disciplinary subcommittee. The disciplinary subcom-
17 mittee shall proceed under section 16226 if it finds that 1 or
18 more of the following grounds exist:

19 (a) A violation of general duty, consisting of negligence or
20 failure to exercise due care, including negligent delegation to
21 or supervision of employees or other individuals, whether or not
22 injury results, or any conduct, practice, or condition which
23 impairs, or may impair, the ability to safely and skillfully
24 practice the health profession.

25 (b) Personal disqualifications, consisting of 1 or more of
26 the following:

1 (i) Incompetence.

2 (ii) Subject to sections 16165 to 16170a, substance abuse as
3 defined in section 6107.

4 (iii) Mental or physical inability reasonably related to and
5 adversely affecting the licensee's ability to practice in a safe
6 and competent manner.

7 (iv) Declaration of mental incompetence by a court of compe-
8 tent jurisdiction.

9 (v) Conviction of a misdemeanor punishable by imprisonment
10 for a maximum term of 2 years; a misdemeanor involving the ille-
11 gal delivery, possession, or use of a controlled substance; or a
12 felony. A certified copy of the court record is conclusive evi-
13 dence of the conviction.

14 (vi) Lack of good moral character.

15 (vii) Conviction of a criminal offense under sections 520a
16 to 520l of the Michigan penal code, Act No. 328 of the Public
17 Acts of 1931, being sections 750.520a to 750.520l of the Michigan
18 Compiled Laws. A certified copy of the court record is conclu-
19 sive evidence of the conviction.

20 (viii) Conviction of a violation of section 492a of the
21 Michigan penal code, Act No. 328 of the Public Acts of 1931,
22 being section 750.492a of the Michigan Compiled Laws. A certi-
23 fied copy of the court record is conclusive evidence of the
24 conviction.

25 (ix) Conviction of a misdemeanor or felony involving fraud
26 in obtaining or attempting to obtain fees related to the practice

1 of a health profession. A certified copy of the court record is
2 conclusive evidence of the conviction.

3 (x) Final adverse administrative action by a licensure, reg-
4 istration, disciplinary, or certification board involving the
5 holder of, or an applicant for, a license or registration regu-
6 lated by another state or a territory of the United States. A
7 certified copy of the record of the board is conclusive evidence
8 of the final action.

9 (xi) Conviction of a misdemeanor that is reasonably related
10 to or that adversely affects the licensee's ability to practice
11 in a safe and competent manner. A certified copy of the court
12 record is conclusive evidence of the conviction.

13 (c) Prohibited acts, consisting of 1 or more of the
14 following:

15 (i) Fraud or deceit in obtaining or renewing a license or
16 registration.

17 (ii) Permitting the license or registration to be used by an
18 unauthorized person.

19 (iii) Practice outside the scope of a license.

20 (iv) Obtaining, possessing, or attempting to obtain or pos-
21 sess a controlled substance as defined in section 7104 or a drug
22 as defined in section 7105 without lawful authority; or selling,
23 prescribing, giving away, or administering drugs for other than
24 lawful diagnostic or therapeutic purposes.

25 (d) Unethical business practices, consisting of 1 or more of
26 the following:

1 (i) False or misleading advertising.

2 (ii) Dividing fees for referral of patients or accepting
3 kickbacks on medical or surgical services, appliances, or medica-
4 tions purchased by or in behalf of patients.

5 (iii) Fraud or deceit in obtaining or attempting to obtain
6 third party reimbursement.

7 (e) Unprofessional conduct, consisting of 1 or more of the
8 following:

9 (i) Misrepresentation to a consumer or patient or in obtain-
10 ing or attempting to obtain third party reimbursement in the
11 course of professional practice.

12 (ii) Betrayal of a professional confidence.

13 (iii) Promotion for personal gain of an unnecessary drug,
14 device, treatment, procedure, or service.

15 (iv) Directing or requiring an individual to purchase or
16 secure a drug, device, treatment, procedure, or service from
17 another person, place, facility, or business in which the
18 licensee has a financial interest.

19 (f) Failure to report a change of name or mailing address
20 within 30 days after the change occurs.

21 (g) A violation, or aiding or abetting in a violation, of
22 this article or of ~~rules~~ A RULE promulgated under this
23 article.

24 (h) Failure to comply with a subpoena issued pursuant to
25 this part, failure to respond to a complaint issued under this
26 article or article 7, failure to appear at a compliance

1 conference or an administrative hearing, or failure to report
2 under section 16222 or 16223.

3 (i) Failure to pay an installment of an assessment levied
4 pursuant to section 2504 of the insurance code of 1956, Act
5 No. 218 of the Public Acts of 1956, being section 500.2504 of the
6 Michigan Compiled Laws, within 60 days after notice by the appro-
7 priate board.

8 (j) A violation of section 17013 or 17513.

9 (k) Failure to meet 1 or more of the requirements for licen-
10 sure or registration under section 16174.

11 (l) A violation of section 17015 or 17515.

12 (m) A violation of section 17016 or 17516.

13 (N) A VIOLATION OF SECTION 5675.

14 Sec. 16226. (1) After finding the existence of 1 or more of
15 the grounds for disciplinary subcommittee action listed in sec-
16 tion 16221, a disciplinary subcommittee shall impose 1 or more of
17 the following sanctions for each violation:

18

19 Violations of Section 16221

Sanctions

20 Subdivision (a), (b)(ii),	Probation, limitation, denial,
21 (b)(iv), (b)(vi), or	suspension, revocation,
22 (b)(vii)	restitution, community service,
23	or fine.
24 Subdivision (b)(viii)	Revocation or denial.
25 Subdivision (b)(i),	Limitation, suspension,
26 (b)(iii), (b)(v),	revocation, denial,

1	(b)(ix),	probation, restitution,
2	(b)(x), or (b)(xi)	community service, or fine.
3	Subdivision (c)(i)	Denial, revocation, suspension,
4		probation, limitation, commu-
5		nity service, or fine.
6	Subdivision (c)(ii)	Denial, suspension, revocation,
7		restitution, community service,
8		or fine.
9	Subdivision (c)(iii)	Probation, denial, suspension,
10		revocation, restitution, commu-
11		nity service, or fine.
12	Subdivision (c)(iv)	Fine, probation, denial,
13	or (d)(iii)	suspension, revocation, commu-
14		nity service,
15		or restitution.
16	Subdivision (d)(i)	Reprimand, fine, probation,
17	or (d)(ii)	community service, denial,
18		or restitution.
19	Subdivision (e)(i)	Reprimand, fine, probation,
20		limitation, suspension, commu-
21		nity service, denial, or
22		restitution.
23	Subdivision (e)(ii)	Reprimand, probation,
24	or (h)	suspension, restitution, commu-
25		nity service, denial, or fine.
26	Subdivision (e)(iii)	Reprimand, fine, probation,

- 1 or (e)(iv) suspension, revocation,
 2 limitation, community service,
 3 denial, or restitution.
 4 Subdivision (f) Reprimand or fine.
 5 Subdivision (g) Reprimand, probation, denial,
 6 suspension, revocation, limita-
 7 tion, restitution, community
 8 service, or fine.
 9 Subdivision (i) Suspension or fine.
 10 Subdivision (j) OR (N) Reprimand or fine.
 11 Subdivision (k) Reprimand, denial, or
 12 limitation.
 13 Subdivision (l) Denial, revocation, restitution,
 14 probation, suspension, limita-
 15 tion, reprimand, or fine.
 16 Subdivision (m) Revocation or denial.

17 (2) Determination of sanctions for violations under this
 18 section shall be made by a disciplinary subcommittee. If, during
 19 judicial review, the court of appeals determines that a final
 20 decision or order of a disciplinary subcommittee prejudices sub-
 21 stantial rights of the petitioner for 1 or more of the grounds
 22 listed in section 106 of the administrative procedures act of
 23 1969, being section 24.306 of Michigan Compiled Laws, and holds
 24 that the final decision or order is unlawful and is to be set
 25 aside, the court shall state on the record the reasons for the
 26 holding and may remand the case to the disciplinary subcommittee
 27 for further consideration.

1 (3) A disciplinary subcommittee may impose a fine of up to,
2 but not exceeding, \$250,000.00 for a violation of
3 section 16221(a) or (b).

4 (4) A disciplinary subcommittee may require a licensee or
5 registrant or an applicant for licensure or registration who has
6 violated this article or article 7 or a rule promulgated under
7 this article or article 7 to satisfactorily complete an educa-
8 tional program, a training program, or a treatment program, a
9 mental, physical, or professional competence examination, or a
10 combination of those programs and examinations.

11 Section 2. Act No. 270 of the Public Acts of 1992, being
12 sections 752.1021 to 752.1027 of the Michigan Compiled Laws, is
13 repealed.

14 Section 3. This amendatory act shall not take effect unless
15 submitted to the qualified electors of the state at the general
16 election to be held November 5, 1998, in the same manner as pro-
17 vided by law for proposed amendments to the state constitution of
18 1963, and approved by a majority of electors voting on the
19 question. If approved by the electors in the manner prescribed
20 in this section, this amendatory act shall take effect January 1,
21 1999.