

# HOUSE BILL No. 5474

January 14, 1998, Introduced by Reps. Wallace, Vaughn, Hanley, Hale, Dobronski, LaForge, Freeman, Emerson, Gubow, Martinez, Leland, Thomas, Kilpatrick, Parks, Murphy and Hood and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending the title and sections 16221 and 16226 (MCL 333.16221 and 333.16226), the title as amended by 1994 PA 170 and sections 16221 and 16226 as amended by 1996 PA 273, and by adding part 56b; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

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,

1 departments, boards, commissions, councils, committees, task  
2 forces, and other agencies; to prescribe the powers and duties of  
3 governmental entities and officials; to regulate occupations,  
4 facilities, and agencies affecting the public health; to regulate  
5 health maintenance organizations and certain third party adminis-  
6 trators and insurers; to provide for the imposition of a regula-  
7 tory fee; to promote the efficient and economical delivery of  
8 health care services, to provide for the appropriate utilization  
9 of health care facilities and services, and to provide for the  
10 closure of hospitals or consolidation of hospitals or services;  
11 to provide for the collection and use of data and information; to  
12 provide for the transfer of property; to provide certain immunity  
13 from liability; to regulate and prohibit the sale and offering  
14 for sale of drug paraphernalia under certain circumstances; TO  
15 PROVIDE A PROCESS THAT ALLOWS A TERMINALLY ILL PATIENT TO REQUEST  
16 AND RECEIVE FROM A PHYSICIAN A PRESCRIPTION FOR MEDICATION TO END  
17 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER; to provide for  
18 penalties and remedies; to provide for sanctions for violations  
19 of this act and local ordinances; ~~to repeal certain acts and~~  
20 ~~parts of acts; to repeal certain parts of this act; and to repeal~~  
21 ~~certain parts of this act on specific dates~~ AND TO REPEAL ACTS  
22 AND PARTS OF ACTS.

23 PART 56B.

24 ENDING LIFE IN A HUMANE AND DIGNIFIED MANNER

25 SEC. 5671. AS USED IN THIS PART:

1 (A) "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS  
2 PRIMARY RESPONSIBILITY FOR THE CARE OF A PATIENT AND TREATMENT OF  
3 THE PATIENT'S TERMINAL DISEASE.

4 (B) "CAPABLE" MEANS NOT INCAPABLE.

5 (C) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALI-  
6 FIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS  
7 AND PROGNOSIS REGARDING A PATIENT'S TERMINAL DISEASE.

8 (D) "COUNSELING" MEANS A CONSULTATION BETWEEN A PATIENT AND  
9 A LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST FOR THE PURPOSE  
10 OF DETERMINING WHETHER THE PATIENT IS SUFFERING FROM A PSYCHIAT-  
11 RIC OR PSYCHOLOGICAL DISORDER INCLUDING, BUT NOT LIMITED TO,  
12 DEPRESSION, THAT MAY CAUSE IMPAIRED JUDGMENT.

13 (E) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, REGIS-  
14 TERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY THE LAW OF THIS  
15 STATE TO ADMINISTER HEALTH CARE IN THE ORDINARY COURSE OF BUSI-  
16 NESS OR PRACTICE OF A HEALTH PROFESSION. HEALTH CARE PROVIDER  
17 INCLUDES A HEALTH FACILITY.

18 (F) "HEALTH FACILITY" MEANS A HEALTH FACILITY OR AGENCY  
19 LICENSED UNDER ARTICLE 17.

20 (G) "INCAPABLE" MEANS THAT, IN THE OPINION OF A COURT OR IN  
21 THE OPINION OF THE PATIENT'S ATTENDING PHYSICIAN OR CONSULTING  
22 PHYSICIAN, A PATIENT LACKS THE ABILITY TO MAKE AND COMMUNICATE  
23 HEALTH CARE DECISIONS TO A HEALTH CARE PROVIDER, INCLUDING COMMU-  
24 NICATION THROUGH INDIVIDUALS FAMILIAR WITH THE PATIENT'S MANNER  
25 OF COMMUNICATING IF THOSE INDIVIDUALS ARE AVAILABLE.

26 (H) "INFORMED DECISION" MEANS A DECISION BY A QUALIFIED  
27 PATIENT TO REQUEST AND OBTAIN A PRESCRIPTION FOR MEDICATION TO

1 END HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER THAT IS  
2 BASED ON AN APPRECIATION OF THE RELEVANT FACTS AND IS MADE AFTER  
3 BEING FULLY INFORMED BY THE QUALIFIED PATIENT'S ATTENDING PHYSI-  
4 CIAN OF ALL OF THE FOLLOWING:

5 (i) HIS OR HER MEDICAL DIAGNOSIS.

6 (ii) HIS OR HER PROGNOSIS.

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

9 (iv) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE  
10 PRESCRIBED.

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

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

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

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

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

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

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

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

12 (A) IS CAPABLE.

13 (B) IS A RESIDENT OF THIS STATE.

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

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

18 (2) BEFORE AN ADULT MAKES A REQUEST UNDER THIS PART FOR MED-  
19 ICATION FOR THE PURPOSE OF ENDING HIS OR HER LIFE IN A HUMANE AND  
20 DIGNIFIED MANNER, HE OR SHE SHALL UNDERGO COUNSELING. AFTER THE  
21 COUNSELING, THE INDIVIDUAL SHALL OBTAIN FROM THE PSYCHIATRIST OR  
22 PSYCHOLOGIST PERFORMING THE COUNSELING A STATEMENT IN WRITING  
23 THAT THE INDIVIDUAL IS NOT SUFFERING FROM A PSYCHIATRIC OR PSY-  
24 CHOLOGICAL DISORDER OR CONDITION INCLUDING, BUT NOT LIMITED TO,  
25 DEPRESSION, THAT MIGHT CAUSE IMPAIRED JUDGMENT.

26 SEC. 5673. (1) A VALID WRITTEN REQUEST FOR MEDICATION UNDER  
27 THIS PART SHALL BE IN SUBSTANTIALLY THE FORM DESCRIBED IN SECTION

1 5674, SIGNED AND DATED BY THE QUALIFIED PATIENT, AND WITNESSED BY  
2 AT LEAST 2 INDIVIDUALS WHO, IN THE PRESENCE OF THE QUALIFIED  
3 PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF  
4 THE QUALIFIED PATIENT IS CAPABLE, IS ACTING VOLUNTARILY, AND IS  
5 NOT BEING COERCED TO SIGN THE REQUEST.

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

8 (A) A RELATIVE OF THE QUALIFIED PATIENT BY BLOOD, MARRIAGE,  
9 OR ADOPTION.

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

14 (C) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTH FACILITY  
15 WHERE THE QUALIFIED PATIENT IS RECEIVING MEDICAL TREATMENT OR IS  
16 A RESIDENT.

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

19 (4) IF THE QUALIFIED PATIENT IS A PATIENT IN A HEALTH FACIL-  
20 ITY THAT IS A NURSING HOME, HOME FOR THE AGED, HOSPITAL LONG-TERM  
21 CARE UNIT, OR COUNTY MEDICAL CARE FACILITY AT THE TIME THE  
22 REQUEST IS MADE, 1 OF THE WITNESSES REQUIRED UNDER SUBSECTION (1)  
23 SHALL BE AN INDIVIDUAL DESIGNATED BY THE HEALTH FACILITY AND  
24 HAVING THE QUALIFICATIONS SPECIFIED BY THE DEPARTMENT OF COMMU-  
25 NITY HEALTH BY RULE. THE DEPARTMENT OF COMMUNITY HEALTH SHALL  
26 PROMULGATE RULES THAT PRESCRIBE WITNESS QUALIFICATIONS FOR  
27 PURPOSES OF THIS SUBSECTION.

1           SEC. 5674. A REQUEST SHALL BE IN SUBSTANTIALLY THE  
2 FOLLOWING FORM:

3                               "REQUEST FOR MEDICATION

4           TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

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

6           I AM SUFFERING FROM \_\_\_\_\_, WHICH MY ATTENDING PHY-  
7 SICIAN HAS DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN  
8 MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

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

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

20           INITIAL ONE:

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

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

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

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

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

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

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

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

7 DECLARATION OF WITNESSES

8 WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

9 (A) IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF  
10 IDENTITY.

11 (B) SIGNED THIS REQUEST IN OUR PRESENCE.

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

14 (D) IS NOT A PATIENT FOR WHOM EITHER OF US IS ATTENDING  
15 PHYSICIAN.

16 WITNESS 1 \_\_\_\_\_ DATE \_\_\_\_\_

17 WITNESS 2 \_\_\_\_\_ DATE \_\_\_\_\_".

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

20 (A) MAKE THE INITIAL DETERMINATION OF WHETHER THE PATIENT  
21 HAS A TERMINAL ILLNESS, IS CAPABLE, AND MAKES THE REQUEST  
22 VOLUNTARILY.

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

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

26 (ii) HIS OR HER PROGNOSIS.

1           (iii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE  
2 MEDICATION TO BE PRESCRIBED UNDER THE REQUEST.

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

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

8           (C) REFER THE QUALIFIED PATIENT TO A CONSULTING PHYSICIAN  
9 FOR MEDICAL CONFIRMATION OF THE DIAGNOSIS THAT THE QUALIFIED  
10 PATIENT HAS A TERMINAL ILLNESS, AND FOR A DETERMINATION THAT THE  
11 QUALIFIED PATIENT IS CAPABLE AND IS ACTING VOLUNTARILY.

12           (D) REQUEST THAT THE QUALIFIED PATIENT NOTIFY HIS OR HER  
13 NEXT OF KIN THAT THE QUALIFIED PATIENT HAS MADE OR INTENDS TO  
14 MAKE A REQUEST.

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

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

23           (G) FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENTS OF  
24 SECTION 5681.

25           (H) ENSURE THAT ALL APPROPRIATE AND REQUIRED STEPS ARE CAR-  
26 RIED OUT IN ACCORDANCE WITH THIS PART BEFORE WRITING A

1 PRESCRIPTION FOR MEDICATION TO ENABLE A QUALIFIED PATIENT TO END  
2 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER.

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

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

20 SEC. 5678. IF AN ATTENDING PHYSICIAN REQUESTS A QUALIFIED  
21 QUALIFIED PATIENT TO NOTIFY HIS OR HER NEXT OF KIN UNDER SECTION  
22 5675(D) THAT THE QUALIFIED PATIENT HAS MADE OR INTENDS TO MAKE A  
23 REQUEST UNDER THIS PART, THE ATTENDING PHYSICIAN SHALL NOT DENY  
24 THE REQUEST SOLELY BECAUSE THE PATIENT DECLINES OR IS UNABLE TO  
25 SO NOTIFY HIS OR HER NEXT OF KIN.

26 SEC. 5679. (1) A QUALIFIED PATIENT SHALL MAKE A REQUEST TO  
27 HIS OR HER ATTENDING PHYSICIAN BOTH ORALLY AND IN WRITING, AND

1 SHALL REITERATE THE REQUEST TO HIS OR HER ATTENDING PHYSICIAN  
2 BOTH ORALLY AND IN WRITING NOT LESS THAN 15 DAYS AFTER MAKING THE  
3 INITIAL REQUEST. THE QUALIFIED PATIENT SHALL MAKE A FINAL ORAL  
4 REQUEST NOT LESS THAN 15 DAYS AFTER MAKING THE SECOND ORAL AND  
5 WRITTEN REQUEST.

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

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

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

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

23 (A) EACH ORAL REQUEST MADE BY THE QUALIFIED PATIENT UNDER  
24 THIS PART.

25 (B) EACH WRITTEN REQUEST MADE BY THE QUALIFIED PATIENT UNDER  
26 THIS PART.

1 (C) THE ATTENDING PHYSICIAN'S DIAGNOSIS THAT THE QUALIFIED  
2 PATIENT HAS A TERMINAL ILLNESS, THE PROGNOSIS, AND THE  
3 DETERMINATION THAT THE QUALIFIED PATIENT IS CAPABLE, IS ACTING  
4 VOLUNTARILY, AND IS MAKING AN INFORMED DECISION.

5 (D) THE CONSULTING PHYSICIAN'S CONFIRMATION OF THE ATTENDING  
6 PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, AND THE CONSULTING  
7 PHYSICIAN'S INDEPENDENT VERIFICATION THAT THE PATIENT IS CAPABLE,  
8 IS ACTING VOLUNTARILY, AND IS MAKING AN INFORMED DECISION.

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

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

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

17 SEC. 5682. AN ATTENDING PHYSICIAN SHALL NOT GRANT A REQUEST  
18 UNDER THIS PART UNLESS THE INDIVIDUAL MAKING THE REQUEST IS A  
19 MICHIGAN RESIDENT.

20 SEC. 5683. (1) THE DEPARTMENT OF COMMUNITY HEALTH SHALL  
21 ANNUALLY REVIEW A SAMPLE OF MEDICAL RECORDS MAINTAINED AS  
22 REQUIRED BY THIS PART. UPON REQUEST, AN ATTENDING PHYSICIAN MAY  
23 RELEASE TO THE DEPARTMENT OF COMMUNITY HEALTH STATISTICAL INFOR-  
24 MATION CONTAINED IN MEDICAL RECORDS MAINTAINED UNDER THIS PART,  
25 SO LONG AS THE INFORMATION DOES NOT CONTAIN PERSONAL IDENTIFIERS  
26 THAT MAY IDENTIFY THE QUALIFIED PATIENT.

1           (2) THE DEPARTMENT OF COMMUNITY HEALTH SHALL PROMULGATE  
2 RULES TO FACILITATE THE COLLECTION OF INFORMATION UNDER  
3 SUBSECTION (1) REGARDING COMPLIANCE WITH THIS PART. EXCEPT AS  
4 PROVIDED IN SUBSECTION (3), THE INFORMATION COLLECTED UNDER SUB-  
5 SECTION (1) IS NOT A PUBLIC RECORD, SHALL NOT BE MADE AVAILABLE  
6 FOR INSPECTION BY THE PUBLIC, AND IS EXEMPT FROM DISCLOSURE UNDER  
7 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
8 15.246.

9           (3) THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE  
10 PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED  
11 UNDER THIS SECTION.

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

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

20           SEC. 5685. THE SALE, PROCUREMENT, OR ISSUANCE OF A LIFE,  
21 HEALTH, OR ACCIDENT INSURANCE POLICY OR CERTIFICATE OR AN ANNUITY  
22 POLICY OR THE RATE CHARGED FOR A SUCH A POLICY OR CERTIFICATE  
23 SHALL NOT BE CONDITIONED UPON OR AFFECTED BY THE MAKING OR  
24 RESCINDING OF A REQUEST BY AN INDIVIDUAL UNDER THIS PART. A  
25 QUALIFIED PATIENT'S ACT OF INGESTING MEDICATION TO END HIS OR HER  
26 LIFE IN A HUMANE AND DIGNIFIED MANNER PURSUANT TO A REQUEST MADE

1 UNDER THIS PART DOES NOT HAVE AN EFFECT UPON A LIFE, HEALTH, OR  
2 ACCIDENT INSURANCE POLICY OR CERTIFICATE OR AN ANNUITY POLICY.

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

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

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

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

25 (C) A REQUEST BY A QUALIFIED PATIENT FOR, OR PROVISION BY AN  
26 ATTENDING PHYSICIAN OF, MEDICATION IN GOOD FAITH COMPLIANCE WITH  
27 THIS PART DOES NOT CONSTITUTE NEGLIGENCE FOR ANY PURPOSE OF LAW

1 AND DOES NOT PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A  
2 GUARDIAN OR CONSERVATOR.

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

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

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

24 (3) AN INDIVIDUAL OTHER THAN A PHYSICIAN WHO PRESCRIBES MED-  
25 ICATION IN A MANNER AND FOR A PURPOSE THAT IS THE SAME OR SUB-  
26 STANTIALLY SIMILAR TO THE MANNER AND PURPOSE PRESCRIBED BY THIS  
27 PART IS GUILTY OF A FELONY.

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

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

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

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

21 (b) Personal disqualifications, consisting of 1 or more of  
22 the following:

23 (i) Incompetence.

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

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

4       (iv) Declaration of mental incompetence by a court of compe-  
5 tent jurisdiction.

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

11       (vi) Lack of good moral character.

12       (vii) Conviction of a criminal offense under sections 520a  
13 to 520l of the Michigan penal code, ~~Act No. 328 of the Public~~  
14 ~~Acts of 1931, being sections 750.520a to 750.520l of the Michigan~~  
15 ~~Compiled Laws~~ 1931 PA 328, MCL 750.520A TO 750.520l. A certi-  
16 fied copy of the court record is conclusive evidence of the  
17 conviction.

18       (viii) Conviction of a violation of section 492a of the  
19 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
20 ~~being section 750.492a of the Michigan Compiled Laws~~ 1931  
21 PA 328, MCL 750.492A. A certified copy of the court record is  
22 conclusive evidence of the conviction.

23       (ix) Conviction of a misdemeanor or felony involving fraud  
24 in obtaining or attempting to obtain fees related to the practice  
25 of a health profession. A certified copy of the court record is  
26 conclusive evidence of the conviction.

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

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

11 (c) Prohibited acts, consisting of 1 or more of the  
12 following:

13 (i) Fraud or deceit in obtaining or renewing a license or  
14 registration.

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

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

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

23 (d) Unethical business practices, consisting of 1 or more of  
24 the following:

25 (i) False or misleading advertising.

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

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

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

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

11       (ii) Betrayal of a professional confidence.

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

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

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

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

23       (h) Failure to comply with a subpoena issued pursuant to  
24 this part, failure to respond to a complaint issued under this  
25 article or article 7, failure to appear at a compliance confer-  
26 ence or an administrative hearing, or failure to report under  
27 section 16222 or 16223.

1 (i) Failure to pay an installment of an assessment levied  
 2 pursuant to section 2504 of the insurance code of 1956, ~~Act~~  
 3 ~~No. 218 of the Public Acts of 1956, being section 500.2504 of the~~  
 4 ~~Michigan Compiled Laws,~~ 1956 PA 218, MCL 500.2504 within 60 days  
 5 after notice by the appropriate board.

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

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

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

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

11 (O) A VIOLATION OF SECTION 5675.

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

16 <u>Violations of Section 16221</u>	<u>Sanctions</u>
17 Subdivision (a), (b)(ii), 18 (b)(iv), (b)(vi), or 19 (b)(vii)	Probation, limitation, denial, suspension, revocation, restitution, community service, or fine.
21 Subdivision (b)(viii)	Revocation or denial.
22 Subdivision (b)(i), 23 (b)(iii), (b)(v), 24 (b)(ix),	Limitation, suspension, revocation, denial, probation, restitution,
25 (b)(x), or (b)(xi)	community service, or fine.

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

- 1 Subdivision (f) Reprimand or fine.
- 2 Subdivision (g) Reprimand, probation, denial,  
3 suspension, revocation, limita-  
4 tion, restitution, community  
5 service, or fine.
- 6 Subdivision (i) Suspension or fine.
- 7 Subdivision (j) OR (O) Reprimand or fine.
- 8 Subdivision (k) Reprimand, denial, or  
9 limitation.
- 10 Subdivision (l) Denial, revocation, restitution,  
11 probation, suspension, limita-  
12 tion, reprimand, or fine.
- 13 Subdivision (m) Revocation or denial.
- 14 (2) Determination of sanctions for violations under this  
15 section shall be made by a disciplinary subcommittee. If, during  
16 judicial review, the court of appeals determines that a final  
17 decision or order of a disciplinary subcommittee prejudices sub-  
18 stantial rights of the petitioner for 1 or more of the grounds  
19 listed in section 106 of the administrative procedures act of  
20 1969, ~~being section 24.306 of Michigan Compiled Laws~~ 1969  
21 PA 306, MCL 24.306, and holds that the final decision or order is  
22 unlawful and is to be set aside, the court shall state on the  
23 record the reasons for the holding and may remand the case to the  
24 disciplinary subcommittee for further consideration.
- 25 (3) A disciplinary subcommittee may impose a fine of up to,  
26 but not exceeding, \$250,000.00 for a violation of  
27 section 16221(a) or (b).

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

8           Enacting section 1. 1992 PA 270, MCL 752.1021 to 752.1027,  
9 is repealed.

10          Enacting section 2. This amendatory act does not take  
11 effect unless submitted to the qualified electors of the state at  
12 the general election to be held November 5, 1998, in the same  
13 manner as provided by law for proposed amendments to the state  
14 constitution of 1963, and approved by a majority of electors  
15 voting on the question. If approved by the electors in the  
16 manner prescribed in this section, this amendatory act takes  
17 effect January 1, 1999.