

SUPREME COURT, STATE OF COLORADO
2 East 14th Ave., Denver, CO 80203

Original Proceeding Pursuant to § 1-40-107(2)
C.R.S. (2015)
Appeal from the Ballot Title Board

**In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2015-2016 #124**

ROBIN STEPHENS, RENEE WALBERT
Petitioners,

v.

HARLAN HIBBARD, JULIE SELSBERG
Respondents,

**SUZANNE STAIERT, FREDERICK YARGER,
AND JASON GELENDER**
Title Board.

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DATE FILED: April 28, 2016 1:17 PM

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Case Number:
2016SA137

**PETITION FOR REVIEW OF FINAL ACTION OF TITLE SETTING
BOARD CONCERNINGS PROPOSED INITIATIVE 2015-2016 #124
("MEDICAL AID IN DYING")**

Petitioners, Robin Stephens and Renee Walbert, registered electors in the State of Colorado, through their counsel, Carrie Ann Lucas, and pursuant to § 1-40-107(2), respectfully petition this Court to review the actions of the Ballot Title Board with respect to the setting of the title and submission clause for Proposed Initiative 2015-2016 #124 (“Medical Aid in Dying”), and states:

STATEMENT OF THE CASE

I. Procedural History of Proposed Initiative #124

On March 11, 2016, Proponents Harlan Hibbard and Julie Selsberg filed proposed Initiative 2015-2016 #124 (the “Initiative”) with the Office of Legislative Council. The review and comment meeting was held under C.R.S. § 1-40-105(1) on March 25, 2016. Later that same day, Proponents submitted the original, amended, and final versions of the Initiative to the Secretary of State for title setting. On April 6, 2016, the Title Board set the Initiative’s title. On April 13, 2016, Petitioners timely filed a Motion for Rehearing on the basis that the title set by the Title Board failed to reflect the central features of the Initiative and that the Initiative violates the single subject rule. The Title Board held

a rehearing on April 20, 2016 and denied the Petitioners' motion except to the extent that the Board amended the title.

II. Jurisdiction

Petitioners are entitled to Colorado Supreme Court review of the Title Board's actions in setting the Initiative's title. C.R.S. § 1-40-107(2). Petitioners filed a timely Motion for Rehearing, see C.R.S. § 1-40-107(1), and subsequently filed this Petition for Review within seven days from the date of the rehearing, see C.R.S. § 1-40-107(2). As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: 1) the Proponents' original, amended, and final draft of the Initiative; 2) the title set by the Title Board on April 6, 2016; (3) Motion for Rehearing filed by the Petitioners and another objector; and (4) the rulings on the Motions for Rehearing as reflected by the title and submission clause set by the Board after rehearing. Petitioner believes that the Title Board erred in denying her motion for rehearing on the issues set forth below. For these reasons, this matter is properly before the Colorado Supreme Court.

GROUND FOR APPEAL

In violation of C.R.S. § 1-40-106, the title and submission clause set by the Title Board is unfair and does not reflect the central features of the Initiative to accurately convey the true intent and meaning of the Initiative. The following is an advisory list of the issues to be addressed in the Petitioners' brief:

- 1) The single subject of the Initiative fails to correctly and properly identify the true intent and meaning of the Initiative, which is to promote physician assisted suicide.
- 2) In addition to its stated purpose, the initiative modifies a number of unrelated statutes affecting mental health treatment, coroner duties, and preventing some types of advanced directives, thereby violating the single subject rule.
- 3) The title fails to reflect that the measure requires death certificates to reflect a cause of death to be something other than suicide.

PRAYER FOR RELIEF

Petitioners respectfully requests that the Court determine that the measure fails to express a single subject, or in the alternative, the

title and submission clause set for Proposed Initiative 2015-2016 #124
is inaccurate, and fails to reflect its true intent and meaning, and
remand to the Title Board with instructions to redraft the title

Respectfully submitted this 28th day of April, 2016.

s/Carrie Ann Lucas
Carrie Ann Lucas, #36620
Attorney for Robin Stephens and Renee Walbert

Certificate of Service

I hereby certify that on April 28, 2016, a true and correct copy of the foregoing was served through the ICCES file and serve system, by electronic mail or by placing a true and correct copy via overnight delivery, postage prepaid and addressed to:

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s/Carrie Ann Lucas
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WITH THE DEPARTMENT. THE DISPENSING RECORD IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION.

25-48-112. FORM OF WRITTEN REQUEST.

(1) A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AUTHORIZED BY THIS ARTICLE MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END MY LIFE
IN A PEACEFUL MANNER

I, _____ AM AN ADULT OF SOUND MIND. I AM SUFFERING FROM _____, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED. I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS, THE NATURE OF THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.

I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICAL AID-IN-DYING MEDICATION THAT WILL END MY LIFE IN A PEACEFUL MANNER IF I CHOOSE TO TAKE IT, AND I AUTHORIZE MY ATTENDING PHYSICIAN TO CONTACT ANY PHARMACIST ABOUT MY REQUEST.

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

I UNDERSTAND THE SERIOUSNESS OF THIS REQUEST, AND I EXPECT TO DIE IF I TAKE THE AID-IN-DYING MEDICATION -PRESCRIBED.

I FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN THREE HOURS, MY DEATH MAY TAKE LONGER, AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY. I MAKE THIS REQUEST VOLUNTARILY, WITHOUT RESERVATION, AND WITHOUT BEING COERCED, AND I ACCEPT FULL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: _____

DATED: _____

DECLARATION OF WITNESSES

WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY;
SIGNED THIS REQUEST IN OUR PRESENCE;

APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, COERCION, OR UNDUE INFLUENCE;
AND

I AM NOT THE ATTENDING PHYSICIAN FOR THE INDIVIDUAL.

WITNESS 1/DATE

WITNESS 2/DATE

NOTE: OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT:

BE A RELATIVE (BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION) OF THE INDIVIDUAL SIGNING THIS REQUEST; BE ENTITLED TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON DEATH; OR OWN, OPERATE, OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE INDIVIDUAL IS A PATIENT OR RESIDENT.

AND NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

25-48-113. STANDARD OF CARE.

(1) PHYSICIANS AND HEALTH CARE PROVIDERS SHALL PROVIDE MEDICAL SERVICES UNDER THIS ACT THAT MEET OR EXCEED THE STANDARD OF CARE FOR END-OF-LIFE MEDICAL CARE.

(2) WHEN A HEALTH CARE PROVIDER MAKES A DIAGNOSIS THAT AN INDIVIDUAL HAS A TERMINAL ILLNESS AND A SIX-MONTH PROGNOSIS OF SIX MONTHS OR LESS, THE HEALTH CARE PROVIDER, UPON THE INDIVIDUAL'S REQUEST, SHALL PROVIDE THE INDIVIDUAL WITH COMPREHENSIVE INFORMATION AND COUNSELING, IN ACCORDANCE WITH THIS SECTION, REGARDING LEGAL END-OF-LIFE MEDICAL CARE OPTIONS.

25-48-114. EFFECT ON WILLS, CONTRACTS, AND STATUTES.

(1) A PROVISION IN A CONTRACT, WILL, OR OTHER AGREEMENT, WHETHER WRITTEN OR ORAL, THAT WOULD AFFECT WHETHER AN INDIVIDUAL MAY MAKE OR RESCIND A REQUEST FOR MEDICAL AID IN DYING PURSUANT TO THIS ARTICLE IS INVALID.

(2) AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE.

25-48-115. INSURANCE OR ANNUITY POLICIES.

(1) THE SALE, PROCUREMENT, OR ISSUANCE OF, OR THE RATE CHARGED FOR, ANY LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH THIS ARTICLE.

(2) A QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE DOES NOT AFFECT A LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY.

(3) AN INSURER SHALL NOT DENY OR OTHERWISE ALTER HEALTH CARE BENEFITS AVAILABLE UNDER A POLICY OF SICKNESS AND ACCIDENT INSURANCE TO AN INDIVIDUAL WITH A TERMINAL

ILLNESS WHO IS COVERED UNDER THE POLICY, BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

(4) AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS A RECIPIENT OF MEDICAL ASSISTANCE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ~~ARTICLE~~ARTICLES 4, 5, AND 6 OF ~~TITLE~~TITLE 25.5, C.R.S. OF THE COLORADO REVISED STATUTES SHALL NOT BE DENIED BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM OR HAVE HIS OR HER BENEFITS UNDER THE PROGRAM OTHERWISE ALTERED BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

25-48-116. IMMUNITY FOR ACTIONS IN GOOD FAITH - PROHIBITION AGAINST REPRISALS.

(1) A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR ACTING IN GOOD FAITH UNDER THIS ARTICLE, WHICH INCLUDES BEING PRESENT WHEN A QUALIFIED INDIVIDUAL SELF-ADMINISTERS THE PRESCRIBED MEDICAL AID-IN-DYING MEDICATION.

(2) EXCEPT AS PROVIDED FOR IN ~~SECTION~~SECTION 25-48-118 OF THIS PART, A HEALTHCARE PROVIDER OR PROFESSIONAL ORGANIZATION OR ASSOCIATION SHALL NOT SUBJECT AN INDIVIDUAL TO ANY OF THE FOLLOWING FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD-FAITH COMPLIANCE UNDER THIS ARTICLE:

- (a) CENSURE;
- (b) DISCIPLINE;
- (c) SUSPENSION;
- (d) LOSS OF LICENSE, PRIVILEGES, OR MEMBERSHIP; OR
- (e) ANY OTHER PENALTY.

(3) A REQUEST BY AN INDIVIDUAL FOR, OR THE PROVISION BY AN ATTENDING PHYSICIAN OF, MEDICAL AID-IN-DYING MEDICATION IN GOOD-FAITH COMPLIANCE WITH THIS ARTICLE DOES NOT:

- (a) CONSTITUTE NEGLIGENCE OR ELDER ABUSE FOR ANY PURPOSE OF LAW; OR
- (b) PROVIDE THE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

(4) THIS SECTION DOES NOT LIMIT CIVIL OR CRIMINAL LIABILITY FOR NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT.

25-48-117. NO DUTY TO PRESCRIBE OR DISPENSE.

(1) A HEALTHCARE PROVIDER MAY CHOOSE WHETHER TO PARTICIPATE IN PROVIDING MEDICAL AID-IN-DYING MEDICATION TO AN INDIVIDUAL IN ACCORDANCE WITH THIS ARTICLE.

(2) IF A HEALTHCARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT AN INDIVIDUAL'S REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MADE IN ACCORDANCE WITH THIS ARTICLE, AND THE INDIVIDUAL TRANSFERS HIS OR HER CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, UPON REQUEST, A COPY OF THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

25-48-118. HEALTH CARE FACILITY PERMISSIBLE PROHIBITIONS - SANCTIONS IF PROVIDER VIOLATES POLICY.

(1) A HEALTH CARE FACILITY MAY PROHIBIT A PHYSICIAN EMPLOYED OR UNDER CONTRACT FROM WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION FOR A QUALIFIED INDIVIDUAL WHO INTENDS TO USE THE MEDICAL AID-IN-DYING MEDICATION ON THE FACILITY'S PREMISES. THE HEALTH CARE FACILITY MUST NOTIFY THE PHYSICIAN IN WRITING OF ITS POLICY WITH REGARD TO PRESCRIPTIONS FOR MEDICAL AID-IN-DYING MEDICATION. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTICE TO THE PHYSICIAN SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY AGAINST THE PHYSICIAN.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT SUBJECT A PHYSICIAN, NURSE, PHARMACIST, OR OTHER PERSON TO DISCIPLINE, SUSPENSION, LOSS OF LICENSE OR PRIVILEGES, OR ANY OTHER PENALTY OR SANCTION FOR ACTIONS TAKEN IN GOOD-FAITH RELIANCE ON THIS ARTICLE OR FOR REFUSING TO ACT UNDER THIS ARTICLE.

(3) A HEALTH CARE FACILITY MUST NOTIFY PATIENTS IN WRITING OF ITS POLICY WITH REGARD TO MEDICAL AID-IN-DYING. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTIFICATION TO PATIENTS SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY.

25-48-119. LIABILITIES.

(1) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401, C.R.S. OF THE COLORADO REVISED STATUTES IF THE PERSON, KNOWINGLY OR INTENTIONALLY CAUSES AN INDIVIDUAL'S DEATH BY:

- (a) FORGING OR ALTERING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION TO END AN INDIVIDUAL'S LIFE WITHOUT THE INDIVIDUAL'S AUTHORIZATION; OR
- (b) CONCEALING OR DESTROYING A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(2) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401, C.R.S. OF THE COLORADO REVISED STATUTES IF THE PERSON KNOWINGLY OR INTENTIONALLY COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL WITH A TERMINAL ILLNESS TO:

- (a) REQUEST MEDICAL AID-IN-DYING MEDICATION FOR THE PURPOSE OF ENDING THE TERMINALLY ILL INDIVIDUAL'S LIFE; OR
- (b) DESTROY A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(3) NOTHING IN THIS ARTICLE LIMITS FURTHER LIABILITY FOR CIVIL DAMAGES RESULTING FROM OTHER NEGLIGENT CONDUCT OR INTENTIONAL MISCONDUCT BY ANY PERSON.

(4) THE PENALTIES SPECIFIED IN THIS ARTICLE DO NOT PRECLUDE CRIMINAL PENALTIES APPLICABLE UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S. OF THE COLORADO REVISED STATUTES, FOR CONDUCT THAT IS INCONSISTENT WITH THIS ARTICLE.

25-48-120. SAFE DISPOSAL OF UNUSED MEDICAL AID-IN-DYING MEDICATIONS.

A PERSON WHO HAS CUSTODY OR CONTROL OF MEDICAL AID-IN-DYING MEDICATION DISPENSED UNDER THIS ARTICLE THAT THE TERMINALLY ILL INDIVIDUAL DECIDES NOT TO USE OR THAT

REMAINS UNUSED AFTER THE TERMINALLY ILL INDIVIDUAL'S DEATH SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION EITHER BY:

(1) RETURNING THE UNUSED MEDICAL AID-IN-DYING MEDICATION TO THE ATTENDING PHYSICIAN WHO PRESCRIBED THE MEDICAL AID-IN-DYING MEDICATION, WHO SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION IN THE MANNER REQUIRED BY LAW; OR
(2) LAWFUL MEANS IN ACCORDANCE WITH SECTION 25-15-328, C.R.S. OF THE COLORADO REVISED STATUTES OR ANY OTHER STATE OR FEDERALLY APPROVED MEDICATION TAKE-BACK PROGRAM AUTHORIZED UNDER THE FEDERAL "SECURE AND RESPONSIBLE DRUG DISPOSAL ACT OF 2010", 21 U.S.C. (822), (828), AND 28 U.S.C. (994) PUBL. L. 11-273, AND REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

25-48-121. ACTIONS COMPLYING WITH ARTICLE NOT A CRIME.

NOTHING IN THIS ARTICLE AUTHORIZES A PHYSICIAN OR ANY OTHER PERSON TO END AN INDIVIDUAL'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING, HOMICIDE, OR ELDER ABUSE UNDER THE "COLORADO CRIMINAL CODE", AS SET FORTH IN TITLE 18, C.R.S. OF THE COLORADO REVISED STATUTES.

25-48-122. CLAIMS BY GOVERNMENT ENTITY FOR COSTS.

A GOVERNMENT ENTITY THAT INCURS COSTS RESULTING FROM AN INDIVIDUAL TERMINATING HIS OR HER LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE INDIVIDUAL TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

25-48-123. NO EFFECT ON ADVANCE MEDICAL DIRECTIVES.

NOTHING IN THIS ARTICLE SHALL CHANGE THE LEGAL EFFECT OF:

- (1) A DECLARATION MADE UNDER ARTICLE 18 OF TITLE 15, C.R.S. OF THE COLORADO REVISED STATUTES, DIRECTING THAT LIFE-SUSTAINING PROCEDURES BE WITHHELD OR WITHDRAWN;
- (2) A CARDIOPULMONARY RESUSCITATION DIRECTIVE EXECUTED UNDER ARTICLE 18.6 OF TITLE 15, C.R.S. OF THE COLORADO REVISED STATUTES; OR
- (3) AN ADVANCE MEDICAL DIRECTIVE EXECUTED UNDER ARTICLE 18.7 OF TITLE 15, C.R.S. OF THE COLORADO REVISED STATUTES.

RECEIVED

MAR 25 2016

Colorado Secretary of State

S. WARD
2:15 P.M.

Be it enacted by the voters of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** Article 48 of Title 25 as follows:

ARTICLE 48

END-OF-LIFE OPTIONS

25-48-101. SHORT TITLE. THE SHORT TITLE OF THIS ARTICLE IS THE "COLORADO END-OF-LIFE OPTIONS ACT".

25-48-102. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER.
- (2) "ATTENDING PHYSICIAN" MEANS A PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF A TERMINALLY ILL INDIVIDUAL AND THE TREATMENT OF THE INDIVIDUAL'S TERMINAL ILLNESS.
- (3) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A TERMINALLY ILL INDIVIDUAL'S ILLNESS.
- (4) "MENTAL CAPACITY" OR "MENTALLY CAPABLE" MEANS THAT IN THE OPINION OF AN INDIVIDUAL'S ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE INDIVIDUAL HAS THE ABILITY TO MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTHCARE PROVIDERS, INCLUDING COMMUNICATION THROUGH A PERSON FAMILIAR WITH THE INDIVIDUAL'S MANNER OF COMMUNICATING IF THAT PERSON IS AVAILABLE; AND AS PURSUANT TO THE COLORADO MEDICAL TREATMENT DECISIONS ACT, SECTION 15-18-103(6) OF THE COLORADO REVISED STATUTES.
- (5) "HEALTHCARE PROVIDER" OR "PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES A HEALTH CARE FACILITY, INCLUDING A LONG-TERM CARE FACILITY AS DEFINED IN SECTION 25-3-103.7 (1) (f.3) AND A CONTINUING CARE RETIREMENT COMMUNITY AS DESCRIBED IN SECTION 25.5-6-203 (1)(c)(i), OF THE COLORADO REVISED STATUTES.
- (6) "INFORMED DECISION" MEANS A DECISION THAT IS:
 - (a) MADE BY AN INDIVIDUAL TO OBTAIN A PRESCRIPTION FOR MEDICATION THAT THE QUALIFIED INDIVIDUAL MAY DECIDE TO SELF-ADMINISTER TO END HIS OR HER LIFE IN A PEACEFUL MANNER;
 - (b) BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS; AND
 - (c) MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE INDIVIDUAL OF:
 - (i) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS;
 - (ii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE PRESCRIBED;
 - (iii) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED;

(IV) THE CHOICES AVAILABLE TO AN INDIVIDUAL THAT DEMONSTRATE HIS OR HER SELF-DETERMINATION AND INTENT TO END HIS OR HER LIFE IN A PEACEFUL MANNER, INCLUDING THE ABILITY TO CHOOSE WHETHER TO:

- (A) REQUEST MEDICAL AID IN DYING;
- (B) OBTAIN A PRESCRIPTION FOR MEDICATION TO END HIS OR HER LIFE;
- (C) FILL THE PRESCRIPTION AND POSSESS MEDICATION TO END HIS OR HER LIFE; AND
- (D) ULTIMATELY SELF-ADMINISTER THE MEDICATION TO BRING ABOUT A PEACEFUL DEATH; AND

(V) ALL FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.

(7) "LICENSED MENTAL HEALTH PROFESSIONAL" FOR THE PURPOSES OF THIS ARTICLE MEANS A PSYCHIATRIST LICENSED UNDER ARTICLE 36 OF TITLE 12 OF THE COLORADO REVISED STATUTES, OR A PSYCHOLOGIST LICENSED UNDER PART 3 OF ARTICLE 43 OF TITLE 12 OF THE COLORADO REVISED STATUTES.

(8) "MEDICAL AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE INDIVIDUAL MAY CHOOSE TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH.

(9) "MEDICAL AID-IN-DYING MEDICATION" MEANS MEDICATION PRESCRIBED BY A PHYSICIAN PURSUANT TO THIS ARTICLE TO PROVIDE MEDICAL AID IN DYING TO A QUALIFIED INDIVIDUAL.

(10) "MEDICALLY CONFIRMED" MEANS THAT A CONSULTING PHYSICIAN WHO HAS EXAMINED THE TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS HAS CONFIRMED THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.

(11) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY LICENSED TO PRACTICE MEDICINE BY THE BOARD OF MEDICAL EXAMINERS FOR THE STATE OF COLORADO.

(12) "PROGNOSIS OF SIX MONTHS OR LESS" MEANS A PROGNOSIS RESULTING FROM A TERMINAL ILLNESS THAT THE ILLNESS WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH WITHIN SIX MONTHS AND WHICH HAS BEEN MEDICALLY CONFIRMED.

(13) "QUALIFIED INDIVIDUAL" MEANS A TERMINALLY ILL ADULT WITH A PROGNOSIS OF SIX MONTHS OR LESS, WHO HAS MENTAL CAPACITY, HAS MADE AN INFORMED DECISION, IS A RESIDENT OF THE STATE, AND HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE IN A PEACEFUL MANNER.

(14) "RESIDENT" MEANS AN INDIVIDUAL WHO IS ABLE TO DEMONSTRATE RESIDENCY IN COLORADO BY PROVIDING ANY OF THE FOLLOWING DOCUMENTATION TO HIS OR HER ATTENDING PHYSICIAN:

(a) A COLORADO DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED PURSUANT TO ARTICLE 2 OF TITLE 42. OF THE COLORADO REVISED STATUTES;

(b) A COLORADO VOTER REGISTRATION CARD OR OTHER DOCUMENTATION SHOWING THE INDIVIDUAL IS REGISTERED TO VOTE IN COLORADO;

(c) EVIDENCE THAT THE INDIVIDUAL OWNS OR LEASES PROPERTY IN COLORADO; OR

(d) A COLORADO INCOME TAX RETURN FOR THE MOST RECENT TAX YEAR.

(15) "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S AFFIRMATIVE, CONSCIOUS, AND PHYSICAL ACT OF ADMINISTERING THE MEDICAL AID-IN-DYING MEDICATION TO HIMSELF OR HERSELF TO BRING ABOUT HIS OR HER OWN DEATH.

(16) "TERMINAL ILLNESS" MEANS AN INCURABLE AND IRREVERSIBLE ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH.

25-48-103. RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION.

(1) AN ADULT RESIDENT OF COLORADO MAY MAKE A REQUEST, IN ACCORDANCE WITH SECTIONS 25-48-104 AND 25-48-112 OF THIS PART, TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION IF:

- (a) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DIAGNOSED THE INDIVIDUAL WITH A TERMINAL ILLNESS WITH A PROGNOSIS OF SIX MONTHS OR LESS;
- (b) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DETERMINED THE INDIVIDUAL HAS MENTAL CAPACITY; AND
- (c) THE INDIVIDUAL HAS VOLUNTARILY EXPRESSED THE WISH TO RECEIVE A PRESCRIPTION FOR AID-IN-DYING MEDICATION.

(2) THE RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION DOES NOT EXIST BECAUSE OF AGE OR DISABILITY.

25-48-104. REQUEST PROCESS - WITNESS REQUIREMENTS.

(1) IN ORDER TO RECEIVE A PRESCRIPTION FOR AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, AN INDIVIDUAL WHO SATISFIES THE REQUIREMENTS IN SECTION 25-48-103 OF THIS PART MUST MAKE TWO ORAL REQUESTS, SEPARATED BY AT LEAST FIFTEEN DAYS, AND A VALID WRITTEN REQUEST TO HIS OR HER ATTENDING PHYSICIAN.

(2)(a) TO BE VALID, A WRITTEN REQUEST FOR AID-IN-DYING MEDICATION MUST BE:

- (i) SUBSTANTIALLY IN THE SAME FORM AS SET FORTH IN SECTION 25-48-112 OF THIS PART;
- (ii) SIGNED AND DATED BY THE INDIVIDUAL SEEKING THE MEDICATION; AND
- (iii) WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE INDIVIDUAL, ATTEST TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THAT THE INDIVIDUAL IS:

- (A) MENTALLY CAPABLE;
- (B) ACTING VOLUNTARILY; AND
- (C) NOT BEING COERCED TO SIGN THE REQUEST.

(b) OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT BE:

- (i) RELATED TO THE INDIVIDUAL BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION;
- (ii) AN INDIVIDUAL WHO, AT THE TIME THE REQUEST IS SIGNED, IS ENTITLED, UNDER A WILL OR BY OPERATION OF LAW, TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON HIS OR HER DEATH; OR
- (iii) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTHCARE FACILITY WHERE THE INDIVIDUAL IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

(c) NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON DESIGNATED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

25-48-105. RIGHT TO RESCIND REQUEST - REQUIREMENT TO OFFER OPPORTUNITY TO RESCIND.

(1) AT ANY TIME, AN INDIVIDUAL MAY RESCIND HIS OR HER REQUEST FOR MEDICAL AID-IN-DYING MEDICATION WITHOUT REGARD TO THE INDIVIDUAL'S MENTAL STATE.

(2) AN ATTENDING PHYSICIAN SHALL NOT WRITE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE UNLESS THE ATTENDING PHYSICIAN OFFERS THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST FOR THE MEDICATION.

25-48-106. ATTENDING PHYSICIAN RESPONSIBILITIES.

(1) THE ATTENDING PHYSICIAN SHALL:

- (a) MAKE THE INITIAL DETERMINATION OF WHETHER AN INDIVIDUAL REQUESTING MEDICAL AID-IN-DYING MEDICATION HAS A TERMINAL ILLNESS, HAS A PROGNOSIS OF SIX MONTHS OR LESS, IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND HAS MADE THE REQUEST VOLUNTARILY;
- (b) REQUEST THAT THE INDIVIDUAL DEMONSTRATE COLORADO RESIDENCY BY PROVIDING DOCUMENTATION AS DESCRIBED IN SECTION 25-48-102 (14) OF THIS PART;
- (c) PROVIDE CARE THAT CONFORMS TO ESTABLISHED MEDICAL STANDARDS AND ACCEPTED MEDICAL GUIDELINES;
- (d) REFER THE INDIVIDUAL TO A CONSULTING PHYSICIAN FOR MEDICAL CONFIRMATION OF THE DIAGNOSIS AND PROGNOSIS AND FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND ACTING VOLUNTARILY;
- (e) PROVIDE FULL, INDIVIDUAL-CENTERED DISCLOSURES TO ENSURE THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION BY DISCUSSING WITH THE INDIVIDUAL:
 - (i) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS;
 - (ii) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL;
 - (iii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;
 - (iv) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED; AND
 - (v) THE POSSIBILITY THAT THE INDIVIDUAL CAN OBTAIN THE MEDICATION BUT CHOOSE NOT TO USE IT;
- (f) REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO SECTION 25-48-108 OF THIS PART IF THE ATTENDING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A PSYCHOLOGICAL OR PSYCHIATRIC STATE CAUSING IMPAIRED JUDGMENT;
- (g) CONFIRM THAT THE INDIVIDUAL'S REQUEST DOES NOT ARISE FROM COERCION OR UNDUE INFLUENCE BY ANOTHER PERSON BY DISCUSSING WITH THE INDIVIDUAL, OUTSIDE THE PRESENCE OF OTHER PERSONS, WHETHER THE INDIVIDUAL IS FEELING COERCED OR UNDULY INFLUENCED BY ANOTHER PERSON;
- (h) COUNSEL THE INDIVIDUAL ABOUT THE IMPORTANCE OF:
 - (i) HAVING ANOTHER PERSON PRESENT WHEN THE INDIVIDUAL SELF-ADMINISTERS THE AID-IN-DYING MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE;
 - (ii) NOT TAKING THE AID-IN-DYING MEDICATION IN A PUBLIC PLACE;
 - (iii) SAFE-KEEPING AND PROPER DISPOSAL OF UNUSED MEDICATION IN ACCORDANCE WITH SECTION 25-48-120 OF THIS PART; AND
 - (iv) NOTIFYING HIS OR HER NEXT OF KIN OF THE REQUEST FOR AID-IN-DYING MEDICATION;
- (i) INFORM THE INDIVIDUAL THAT HE OR SHE MAY RESCIND THE REQUEST FOR AID-IN-DYING MEDICATION AT ANY TIME AND IN ANY MANNER;
- (j) VERIFY, IMMEDIATELY PRIOR TO WRITING THE PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION, THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;
- (k) ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR AID-IN-DYING MEDICATION; AND

- (l) EITHER:
 - (i) DISPENSE AID-IN-DYING MEDICATIONS DIRECTLY TO THE QUALIFIED INDIVIDUAL, INCLUDING ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE INDIVIDUAL'S DISCOMFORT, IF THE ATTENDING PHYSICIAN HAS A CURRENT DRUG ENFORCEMENT ADMINISTRATION CERTIFICATE AND COMPLIES WITH ANY APPLICABLE ADMINISTRATIVE RULE; OR
 - (ii) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY, BY MAIL, OR THROUGH AUTHORIZED ELECTRONIC TRANSMISSION IN THE MANNER PERMITTED UNDER ARTICLE 42.5 OF TITLE 12 OF THE COLORADO REVISED STATUTES, TO A LICENSED PHARMACIST, WHO SHALL DISPENSE THE MEDICATION TO THE QUALIFIED INDIVIDUAL, THE ATTENDING PHYSICIAN, OR AN INDIVIDUAL EXPRESSLY DESIGNATED BY THE QUALIFIED INDIVIDUAL.

25-48-107. CONSULTING PHYSICIAN RESPONSIBILITIES.

BEFORE AN INDIVIDUAL WHO IS REQUESTING AID-IN-DYING MEDICATION MAY RECEIVE A PRESCRIPTION FOR THE MEDICATION, A CONSULTING PHYSICIAN MUST:

- (1) EXAMINE THE INDIVIDUAL AND HIS OR HER RELEVANT MEDICAL RECORDS;
- (2) CONFIRM, IN WRITING, TO THE ATTENDING PHYSICIAN:
 - (a) THAT THE INDIVIDUAL HAS A TERMINAL ILLNESS;
 - (b) THE INDIVIDUAL'S PROGNOSIS;
 - (c) THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION ; AND
 - (d) THAT THE INDIVIDUAL IS MENTALLY CAPABLE, OR PROVIDE DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS REFERRED THE INDIVIDUAL FOR FURTHER EVALUATION IN ACCORDANCE WITH SECTION 25-48-108 OF THIS PART.

25-48-108. CONFIRMATION THAT INDIVIDUAL IS MENTALLY CAPABLE - REFERRAL TO MENTAL HEALTH PROFESSIONAL.

- (1) AN ATTENDING PHYSICIAN SHALL NOT PRESCRIBE AID-IN-DYING MEDICATION UNDER THIS ARTICLE FOR AN INDIVIDUAL WITH A TERMINAL ILLNESS UNTIL THE INDIVIDUAL IS DETERMINED TO BE MENTALLY CAPABLE AND MAKING AN INFORMED DECISION, AND THOSE DETERMINATIONS ARE CONFIRMED IN ACCORDANCE WITH THIS SECTION.
 - (2) IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A PSYCHOLOGICAL OR PSYCHIATRIC CONDITION CAUSING IMPAIRED JUDGMENT, THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING AN INFORMED DECISION.
 - (3) A LICENSED MENTAL HEALTH PROFESSIONAL WHO EVALUATES AN INDIVIDUAL UNDER THIS SECTION SHALL COMMUNICATE, IN WRITING, TO THE ATTENDING OR CONSULTING PHYSICIAN WHO REQUESTED THE EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING INFORMED DECISIONS. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE INDIVIDUAL IS NOT MENTALLY CAPABLE OF MAKING INFORMED DECISIONS, THE PERSON SHALL NOT BE DEEMED A QUALIFIED INDIVIDUAL UNDER THIS ARTICLE AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE AID-IN-DYING MEDICATION TO THE INDIVIDUAL.
- 25-48-109. DEATH CERTIFICATE.**

(1) UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR THE HOSPICE MEDICAL DIRECTOR SHALL SIGN THE DEATH CERTIFICATE OF A QUALIFIED INDIVIDUAL WHO OBTAINED AND SELF-ADMINISTERED AID-IN-DYING MEDICATION.

(2) WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE, THE CAUSE OF DEATH SHALL BE LISTED AS THE UNDERLYING TERMINAL ILLNESS AND THE DEATH DOES NOT CONSTITUTE GROUNDS FOR POST-MORTEM INQUIRY UNDER SECTION 30-10-606 (1) OF THE COLORADO REVISED STATUTES.

25-48-110. INFORMED DECISION REQUIRED.

(1) AN INDIVIDUAL WITH A TERMINAL ILLNESS IS NOT A QUALIFIED INDIVIDUAL AND MAY NOT RECEIVE A PRESCRIPTION FOR AID-IN-DYING MEDICATION UNLESS HE OR SHE HAS MADE AN INFORMED DECISION.

(2) IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR AID-IN-DYING MEDICATION UNDER THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL VERIFY THAT THE INDIVIDUAL WITH A TERMINAL ILLNESS IS MAKING AN INFORMED DECISION.

25-48-111. MEDICAL RECORD DOCUMENTATION REQUIREMENTS - REPORTING REQUIREMENTS - DEPARTMENT COMPLIANCE REVIEWS - RULES.

(1) THE ATTENDING PHYSICIAN SHALL DOCUMENT IN THE INDIVIDUAL'S MEDICAL RECORD, THE FOLLOWING INFORMATION:

- (a) DATES OF ALL ORAL REQUESTS; (b) A VALID WRITTEN REQUEST;
- (c) THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION OF MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING A VOLUNTARY REQUEST AND AN INFORMED DECISION;
- (d) THE CONSULTING PHYSICIAN'S CONFIRMATION OF DIAGNOSIS AND PROGNOSIS, MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;
- (e) IF APPLICABLE, WRITTEN CONFIRMATION OF MENTAL CAPACITY FROM A LICENSED MENTAL HEALTH PROVIDER;
- (f) NOTATION OF NOTIFICATION OF THE RIGHT TO RESCIND A REQUEST MADE PURSUANT TO THIS ARTICLE; AND
- (g) NOTATION BY ATTENDING PHYSICIAN THAT ALL REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN SATISFIED; INDICATING STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICATIONS PRESCRIBED AND WHEN.

(2)(a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS MAINTAINED PURSUANT TO THIS ARTICLE TO ENSURE COMPLIANCE. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF INFORMATION DEFINED IN SECTION 25-48-111(1) OF THIS PART. EXCEPT AS OTHERWISE REQUIRED BY LAW, THE INFORMATION COLLECTED BY THE DEPARTMENT IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION. HOWEVER, THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS SUBSECTION (2).

(b) THE DEPARTMENT SHALL REQUIRE ANY HEALTHCARE PROVIDER, UPON DISPENSING A MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, TO FILE A COPY OF A DISPENSING RECORD WITH THE DEPARTMENT. THE DISPENSING RECORD IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION.

25-48-112. FORM OF WRITTEN REQUEST.

(1) A REQUEST FOR AID-IN-DYING MEDICATION AUTHORIZED BY THIS ARTICLE MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END MY LIFE
IN A PEACEFUL MANNER

I, _____ AM AN ADULT OF SOUND MIND. I AM SUFFERING FROM _____, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED. I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS, THE NATURE OF THE AID-IN-DYING MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL. I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE AID-IN-DYING MEDICATION THAT WILL END MY LIFE IN A PEACEFUL MANNER IF I CHOOSE TO TAKE IT, AND I AUTHORIZE MY ATTENDING PHYSICIAN TO CONTACT ANY PHARMACIST ABOUT MY REQUEST. I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME. I UNDERSTAND THE SERIOUSNESS OF THIS REQUEST, AND I EXPECT TO DIE IF I TAKE THE AID-IN-DYING MEDICATION PRESCRIBED. I FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN THREE HOURS, MY DEATH MAY TAKE LONGER, AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY. I MAKE THIS REQUEST VOLUNTARILY, WITHOUT RESERVATION, AND WITHOUT BEING COERCED, AND I ACCEPT FULL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: _____

DATED: _____

DECLARATION OF WITNESSES

WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY;
SIGNED THIS REQUEST IN OUR PRESENCE;

APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, COERCION, OR UNDULY INFLUENCE; AND

I AM NOT THE ATTENDING PHYSICIAN FOR THE INDIVIDUAL.

_____ WITNESS 1/DATE

_____ WITNESS 2/DATE

NOTE: OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT:

BE A RELATIVE (BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION) OF THE INDIVIDUAL SIGNING THIS REQUEST; BE ENTITLED TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON DEATH; OR OWN, OPERATE, OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE INDIVIDUAL IS A PATIENT OR RESIDENT.

25-48-113. STANDARD OF CARE.

(1) PHYSICIANS AND HEALTH CARE PROVIDERS SHALL PROVIDE MEDICAL SERVICES UNDER THIS ACT THAT MEET OR EXCEED THE STANDARD OF CARE FOR END-OF-LIFE MEDICAL CARE.

(2) WHEN A HEALTHCARE PROVIDER MAKES A DIAGNOSIS THAT AN INDIVIDUAL HAS A TERMINAL ILLNESS AND A SIX MONTH PROGNOSIS, THE HEALTH CARE PROVIDER, UPON THE INDIVIDUAL'S REQUEST, SHALL PROVIDE THE INDIVIDUAL WITH COMPREHENSIVE INFORMATION AND COUNSELING, IN ACCORDANCE WITH THIS SECTION, REGARDING LEGAL END-OF-LIFE MEDICAL CARE OPTIONS.

25-48-114. EFFECT ON WILLS, CONTRACTS, AND STATUTES.

(1) A PROVISION IN A CONTRACT, WILL, OR OTHER AGREEMENT, WHETHER WRITTEN OR ORAL, THAT WOULD AFFECT WHETHER AN INDIVIDUAL MAY MAKE OR RESCIND A REQUEST FOR MEDICAL AID IN DYING PURSUANT TO THIS ARTICLE IS INVALID.

(2) AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE.

25-48-115. INSURANCE OR ANNUITY POLICIES.

(1) THE SALE, PROCUREMENT, OR ISSUANCE OF, OR THE RATE CHARGED FOR, ANY LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR AID-IN-DYING MEDICATION IN ACCORDANCE WITH THIS ARTICLE.

(2) A QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE DOES NOT AFFECT A LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY.

(3) AN INSURER SHALL NOT DENY OR OTHERWISE ALTER HEALTH CARE BENEFITS AVAILABLE UNDER A POLICY OF SICKNESS AND ACCIDENT INSURANCE TO AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS COVERED UNDER THE POLICY, BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

(4) AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS A RECIPIENT OF MEDICAL ASSISTANCE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5 OF THE COLORADO REVISED STATUTES SHALL NOT BE DENIED BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM OR HAVE HIS OR HER BENEFITS UNDER THE PROGRAM OTHERWISE ALTERED BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

25-48-116. IMMUNITY FOR ACTIONS IN GOOD FAITH - PROHIBITION AGAINST REPRISALS.

(1) A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR ACTING IN GOOD FAITH UNDER THIS ARTICLE, WHICH INCLUDES BEING PRESENT WHEN

A QUALIFIED INDIVIDUAL SELF-ADMINISTERS THE PRESCRIBED MEDICAL AID-IN-DYING MEDICATION.

(2) EXCEPT AS PROVIDED FOR IN SECTION 25-48-118 OF THIS PART, A HEALTHCARE PROVIDER OR PROFESSIONAL ORGANIZATION OR ASSOCIATION SHALL NOT SUBJECT AN INDIVIDUAL TO ANY OF THE FOLLOWING FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD-FAITH COMPLIANCE UNDER THIS ARTICLE:

- (a) CENSURE;
- (b) DISCIPLINE;
- (c) SUSPENSION;
- (d) LOSS OF LICENSE, PRIVILEGES, OR MEMBERSHIP; OR
- (e) ANY OTHER PENALTY.

(3) A REQUEST BY AN INDIVIDUAL FOR, OR THE PROVISION BY AN ATTENDING PHYSICIAN OF, MEDICAL AID-IN-DYING MEDICATION IN GOOD-FAITH COMPLIANCE WITH THIS ARTICLE DOES NOT:

- (a) CONSTITUTE NEGLIGENCE OR ELDER ABUSE FOR ANY PURPOSE OF LAW; OR
- (b) PROVIDE THE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

(4) THIS SECTION DOES NOT LIMIT CIVIL OR CRIMINAL LIABILITY FOR NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT.

25-48-117. NO DUTY TO PRESCRIBE OR DISPENSE.

(1) A HEALTHCARE PROVIDER MAY CHOOSE WHETHER TO PARTICIPATE IN PROVIDING MEDICAL AID-IN-DYING MEDICATION TO AN INDIVIDUAL IN ACCORDANCE WITH THIS ARTICLE.

(2) IF A HEALTHCARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT AN INDIVIDUAL'S REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MADE IN ACCORDANCE WITH THIS ARTICLE, AND THE INDIVIDUAL TRANSFERS HIS OR HER CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, UPON REQUEST, A COPY OF THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

25-48-118. HEALTH CARE FACILITY PERMISSIBLE PROHIBITIONS - SANCTIONS IF PROVIDER VIOLATES POLICY.

(1) A HEALTH CARE FACILITY MAY PROHIBIT A PHYSICIAN EMPLOYED OR UNDER CONTRACT FROM WRITING A PRESCRIPTION FOR AID-IN-DYING MEDICATION FOR A QUALIFIED INDIVIDUAL WHO INTENDS TO USE THE AID-IN-DYING MEDICATION ON THE FACILITY'S PREMISES. THE HEALTH CARE FACILITY MUST NOTIFY THE PHYSICIAN IN WRITING OF ITS POLICY WITH REGARD TO PRESCRIPTIONS FOR AID-IN-DYING MEDICATION. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTICE TO THE PHYSICIAN SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY AGAINST THE PHYSICIAN.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT SUBJECT A PHYSICIAN, NURSE, PHARMACIST, OR OTHER PERSON TO DISCIPLINE, SUSPENSION, LOSS OF LICENSE OR PRIVILEGES, OR ANY OTHER PENALTY OR SANCTION FOR ACTIONS TAKEN IN GOOD-FAITH RELIANCE ON THIS ARTICLE OR FOR REFUSING TO ACT UNDER THIS ARTICLE.

25-48-119. LIABILITIES.

(1) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401 OF THE COLORADO REVISED STATUTES IF THE PERSON, KNOWINGLY OR INTENTIONALLY CAUSES AN INDIVIDUAL'S DEATH BY:

- (a) FORGING OR ALTERING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION TO END AN INDIVIDUAL'S LIFE WITHOUT THE INDIVIDUAL'S AUTHORIZATION; OR
 - (b) CONCEALING OR DESTROYING A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.
- (2) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401 OF THE COLORADO REVISED STATUTES IF THE PERSON KNOWINGLY OR INTENTIONALLY COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL WITH A TERMINAL ILLNESS TO:
- (a) REQUEST MEDICAL AID-IN-DYING MEDICATION FOR THE PURPOSE OF ENDING THE TERMINALLY ILL INDIVIDUAL'S LIFE; OR
 - (b) DESTROY A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.
- (3) NOTHING IN THIS ARTICLE LIMITS FURTHER LIABILITY FOR CIVIL DAMAGES RESULTING FROM OTHER NEGLIGENT CONDUCT OR INTENTIONAL MISCONDUCT BY ANY PERSON.
- (4) THE PENALTIES SPECIFIED IN THIS ARTICLE DO NOT PRECLUDE CRIMINAL PENALTIES APPLICABLE UNDER THE COLORADO CRIMINAL CODE, TITLE 18, OF THE COLORADO REVISED STATUTES, FOR CONDUCT THAT IS INCONSISTENT WITH THIS ARTICLE.

25-48-120. SAFE DISPOSAL OF UNUSED MEDICATIONS.

A PERSON WHO HAS CUSTODY OR CONTROL OF MEDICAL AID-IN-DYING MEDICATION DISPENSED UNDER THIS ARTICLE THAT THE TERMINALLY ILL INDIVIDUAL DECIDES NOT TO USE OR THAT REMAINS UNUSED AFTER THE TERMINALLY ILL INDIVIDUAL'S DEATH SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION EITHER BY:

- (1) RETURNING THE UNUSED MEDICATION TO THE ATTENDING PHYSICIAN WHO PRESCRIBED THE MEDICATION, WHO SHALL DISPOSE OF THE UNUSED MEDICATION IN THE MANNER REQUIRED BY LAW; OR
- (2) LAWFUL MEANS IN ACCORDANCE WITH SECTION 25-15-328 OF THE COLORADO REVISED STATUTES OR ANY OTHER STATE OR FEDERALLY APPROVED MEDICATION TAKE-BACK PROGRAM AUTHORIZED UNDER THE FEDERAL "SECURE AND RESPONSIBLE DRUG DISPOSAL ACT OF 2010", PUB.L. 111-273, AND REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

25-48-121. ACTIONS COMPLYING WITH ARTICLE NOT A CRIME.

NOTHING IN THIS ARTICLE AUTHORIZES A PHYSICIAN OR ANY OTHER PERSON TO END AN INDIVIDUAL'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING, HOMICIDE, OR ELDER ABUSE UNDER THE "COLORADO CRIMINAL CODE", AS SET FORTH IN TITLE 18 OF THE COLORADO REVISED STATUTES.

25-48-122. CLAIMS BY GOVERNMENT ENTITY FOR COSTS.

A GOVERNMENT ENTITY THAT INCURS COSTS RESULTING FROM AN INDIVIDUAL TERMINATING HIS OR HER LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE INDIVIDUAL TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

25-48-123. NO EFFECT ON ADVANCE MEDICAL DIRECTIVES.

NOTHING IN THIS ARTICLE SHALL CHANGE THE LEGAL EFFECT OF:

- (1) A DECLARATION MADE UNDER ARTICLE 18 OF TITLE 15, OF THE COLORADO REVISED STATUTES, DIRECTING THAT LIFE-SUSTAINING PROCEDURES BE WITHHELD OR WITHDRAWN;
- (2) A CARDIOPULMONARY RESUSCITATION DIRECTIVE EXECUTED UNDER ARTICLE 18.6 OF TITLE 15, OF THE COLORADO REVISED STATUTES; OR
- (3) AN ADVANCE MEDICAL DIRECTIVE EXECUTED UNDER ARTICLE 18.7 OF TITLE 15, OF THE COLORADO REVISED STATUTES .

Ballot Title Setting Board

Proposed Initiative 2015-2016 #124¹

The title as designated and fixed by the Board is as follows:

A change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who is dying of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm that the terminally-ill patient has six months or less to live and has received information about alternative care and treatment; requiring two physicians or mental health professionals to determine that the patient is making a voluntary and informed decision in requesting the medication; granting immunity from civil and criminal liability and professional discipline to any person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who is dying of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm that the terminally-ill patient has six months or less to live and has received information about alternative care and treatment; requiring two physicians or mental health professionals to determine that the patient is making a voluntary and informed decision in requesting the medication; granting immunity from civil and criminal liability and professional discipline to any person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication?

Hearing April 6, 2016:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 3:02 p.m.

¹ Unofficially captioned “**Medical Aid in Dying**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

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APR 13 2016

S. WARD
1:41 P.M.

Colorado Secretary of State

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

In the Matter of the Title and Ballot Title and Submission Clause for Initiative
2015-2016 #124

MOTION FOR REHEARING

Registered electors, Robin Stephens and Renee Walbert, through their legal counsel Carrie Ann Lucas and Courtney Longtin of Disabled Parents Rights, request a rehearing of the Title Board for Initiative 2015-2016 No. 124. As set forth below, Ms. Stephens and Ms. Walbert respectfully object to the Title Board's setting of the title, and the ballot title and submission clause on the following grounds:

TITLE AND SUBMISSION CLAUSE

On April 6, 2016, the Title Board designated the title as follows:

A change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who is dying of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm that the terminally-ill patient has six months or less to live and has received information about alternative care and treatment; requiring two physicians or mental health professionals to determine that the patient is making a voluntary and informed decision in requesting the medication; granting immunity from civil and criminal liability and professional discipline to any person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication.

The Title Board set the ballot title and submission clause as follows:

Shall there be a change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who is dying of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm that the terminally-ill patient has six months or less to live and has received information about alternative care and treatment; requiring two physicians or mental health professionals to determine that the patient is making a voluntary and informed decision in requesting the medication; granting immunity from civil and criminal liability and professional discipline to any person who in

good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication?

GROUND FOR RECONSIDERATION

I. THE INITIATIVE IMPERMISSIBLY CONTAINS MULTIPLE SUBJECTS IN VIOLATION OF THE COLORADO CONSTITUTION AND STATUTES

The Colorado Constitution and statutes require that each initiative that proposes an amendment to the Constitution shall contain only one subject and that subject shall be clearly expressed in the title. *See Colo. Const. art. V., § 1(5.5); § 1-40-106.5 C.R.S.; In re Title, Ballot Title, Submission Clause*, 974 P.2d 458, 463 (Colo. 1999) (a proposed initiative violates the single subject rule where it "has at least two distinct and separate purposes which are not dependent upon or connected with each other."). The Title Board must examine an initiative's central theme "to determine whether it contains incongruous or hidden purposes or bundles incongruous measures under a broad theme." *Gonzalez-Estay v. Lamm*, 138 P.3d 273, 279 (Colo. 2006). The Board set title for Initiative No. 124 despite the fact that it contains multiple, distinct and separate purposes that are not dependent upon or connected with one another. Specifically, the initiative includes the following several, unrelated subjects:

- A. Initiative # 124 explicitly changes several state laws, with multiple unintended effects:
 - 1. 30-10-606(1) – Which would require a coroner to lie on a death certificate and indicate the death was not a suicide;
 - 2. The "Colorado Medical Assistance Act" (Articles 4, 5 and 6 of Title 25.5 CRS – addressing financial assistance to needy families;
- B. Modifies many references in Colorado criminal code, Title 18, having to do with mercy killing, homicide or elder abuse, making it impossible to enforce unrelated statutes;
- C. Implicitly changes insurance laws and contracts;
- D. Implicitly changes coroner duties;
- E. Implicitly changes Colorado Medical Treatment Decision Act by creating new and conflicting definitions, as well as preventing some types of advance directives aimed at preventing the use of this proposed law;
- F. Implicitly changes title 27 with respect to care for people with mental illness;

- G. Implicitly changes probate code by prohibiting will and trust provisions;
- H. Implicitly changes employment contracts between medical providers and their employers.

II. The Titles are misleading and do not express the true intent of the Initiative.

An initiative's ballot title and submission clause must "correctly and fairly express the true intent and meaning" of the measure. C.R.S. § 1-40-106(3)(b). The title should clearly express the initiative's single subject. In re Title, Ballot Title, and Submission Clause for 2009-2010 # 45, 234 P.3d 642, 647-48 (Colo. 2010). In setting titles, the Board "shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear." C.R.S. § 1-40-106(3)(b).

A. The Titles for Initiative #124 are Misleading Because Patients Are Not Required to be Dying

The Board's titles imply that the proposed law is limited to people who are "dying." There is no such limit. The law instead applies to persons with a mere prognosis (prediction) of six months or less to live due to terminal illness. Such persons, in fact, may have years, even decades, to live. This is true for two reasons:

1. Misdiagnosis occurs; predicting life expectancy is not an exact science

Patients predicted to have six months or less to live, may, in fact, have years to live due to misdiagnosis and because predicting life expectancy is not an exact science.¹ People frequently outlive a terminal diagnosis, by months, years and decades. People with congenital neuromuscular diseases are often predicted to die before reaching adulthood, but commonly live into their 60s, 70s, and 80s.

2. The definition of terminal illness is so expansive as to include such diseases as insulin dependent diabetes.

¹ See: Jessica Firger, "12 million Americans misdiagnosed each year," CBS NEWS, 4/17/14; and Nina Shapiro, "Terminal Uncertainty — Washington's new 'Death with Dignity' law allows doctors to help people commit suicide — once they've determined that the patient has only six months to live. But what if they're wrong?," *The Seattle Weekly*, 1/14/09. Excerpts attached hereto at A-14 and A-15 to A-17, respectively.

The proposed Colorado law applies to persons with a survival prognosis of six months or less due to a "terminal illness." Moreover, the law states: "Terminal illness" means an incurable and irreversible illness that will, within reasonable medical judgment, result in death. This includes such chronic conditions as diabetes. Without insulin, a person who has insulin dependent diabetes will be dead within a month. Diabetes is not curable or irreversible, it is manageable. Accordingly, people with insulin dependent diabetes, for example, would be eligible for physician assisted suicide under this proposed law because they have an incurable and irreversible illness that will result in death.

The bottom line, the proposed law applies to people with years, even decades, to live. The proposed titles, which imply that only a person "who is dying" will be eligible, are materially misleading and must be changed.

- B. The language "prescription from a licensed physician for medication that can be self-administered to bring about death," is misleading and hides the true intent of the law.

The American Medical Association (AMA) defines physician-assisted suicide as occurring when "a physician facilitates a patient's death by providing the necessary means and/or information to enable the patient to perform the life-ending act."¹ The AMA gives this example: "[A] physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide."²

"Assisted suicide" is a general term in which the assisting person is not necessarily a physician. "Euthanasia," by contrast, is a direct administration of the lethal dose with the intent to cause another person's death.³

This proposed law would allow both, and voters are entitled to know these actions are allowed by this law.

1. The proposed bills allow someone else to administer the lethal dose to the patient.

Generally accepted medical practice allows a doctor, or a person acting under the direction of a doctor, to administer prescription drugs to patients. Common

¹ The AMA Code of Medical Ethics, Opinion 2.2II, Physician-Assisted Suicide.

² *Id.*

³ *Id.* at Opinion 2.2i, Euthanasia.

examples include parents administering drugs to their children, and adult children who administer drugs to their parents. This is a normal practice

The way self-administration is defined, generally accepted medical practice allows someone else to administer lethal dose to the patient. With someone else allowed to administer the lethal dose, the patient's choice and control are once again not guaranteed, and euthanasia occurs.

The definition of self-administration does not preclude another individual giving the individual the medication, having been told to do so at the time of administration, or sometime in the past, even if the individual subsequently changed their mind about ingesting the lethal dose.

WHEREFORE, Petitioners Robin Stephens and Renee Walbert respectfully request a rehearing and reconsideration of the title, ballot title and submission clause set by the Title Board on April 6, 2016, for Initiative 2015-2016 #124.

Respectfully submitted this 13th day of April, 2016.

DISABLED PARENTS RIGHTS



Carrie Ann Lucas ■■■ 6620

Courtney Longtin, #43937

Attorneys for Robin Stephens and Renee Walbert

Certificate of Service

I hereby certify that on April 13, 2016, a true and correct copy of the foregoing was served by electronic mail or by placing a true and correct copy in the United States Mail, postage prepaid and addressed to:

Harlan Hibbard
3712 Wonderland Hill Avenue
Boulder, CO 80304

Julie Selsberg
2060 Jasmine Street
Denver, CO 80207



RECEIVED

APR 13 2016

S. WARD

3:03 P.M.

Colorado Secretary of State

BEFORE COLORADO STATE TITLE SETTING BOARD

In re Ballot Title and Submission Clause for 2015-2016 Initiative #124 ("Medical Aid in Dying")

DR. MICHELLE STANFORD, Objector.

MOTION FOR REHEARING

Pursuant to C.R.S. § 1-40-107, Objector, Dr. Michelle Stanford, a registered elector of the State of Colorado, through her legal counsel, Lewis Roca Rothgerber Christie LLP, submits this Motion for Rehearing of the Title Board's April 6, 2016 decision to set the title of 2015-2016 Initiative #124 ("Initiative"), and states:

I. The Title and Submission Clause Do Not Fairly Express the True Meaning and Intent of the Proposed State Law.

The title fails to adequately reflect the central features of the Initiative:

- 1) The single subject of the Initiative fails to correctly and properly identify the true intent and meaning of the Initiative, which is physician-assisted suicide.
- 2) The title fails to reflect that the individual must affirmatively request information and counseling regarding end-of-life medical care options upon diagnosis of terminal illness and prognosis of 6 months or less before such options are presented to the individual.
- 3) The title fails to reflect that the measure dictates how cause of death will be reflected on the person's death certificate and dictates that the cause of death be something other than suicide.
- 4) The title fails to reflect that the measure alters the terms of insurance contracts with respect to suicide.
- 5) The title fails to disclose that the individual has a right to rescind his or her request for medical-aid-in-dying medication at any time and in any manner.
- 6) The title fails to reflect that the individual may designate another person to pick up the aid-in-dying medication from the pharmacist.
- 7) The title fails to reflect that the Colorado Department of Public Health and Environment will be required to oversee compliance with record-keeping required by the measure and publish an annual report.
- 8) The title fails to reflect that there is no mandatory consultation with a mental health professional to ensure that the individual is making an informed decision.
- 9) The title fails to reflect that the measure provides for disposal procedures for the aid-in-dying medication if the individual rescinds his or her request.

WHEREFORE, Objector respectfully requests that the Title Board set Initiative 124 for hearing pursuant to C.R.S. § 1-40-107(1).

DATED: April 13, 2016.

s/Hermine Kallman

Thomas M. Rogers III

Hermine Kallman

LEWIS ROCA ROTHGERBER CHRISTIE LLP

1200 Seven~~th~~ St., Suite 3000

Denver, CO 80202

Phone: (303) 623-9000

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Email: trogers@lrrc.com

hkallman@lrrc.com

Address of Objector:
Dr. Michelle Stanford
15464 E. Orchard Road
Centennial, CO 80016

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2016, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via email and U.S. Mail as follows:

Harlan Hibbard (via U.S. Mail)
3712 Wonderland Hill Avenue
Boulder, CO

Julie Selsberg (via U.S. Mail)
2060 Jasmine Street
Denver, CO
Proponents

Mark G. Grueskin (via email)
1600 Stout Street, Suite 1000
Denver CO 80202
mark@rklawpc.com

s/Jonelle Martinez

Ballot Title Setting Board

Proposed Initiative 2015-2016 #124¹

The title as designated and fixed by the Board is as follows:

A change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who has a medical prognosis of death by terminal illness within six months to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm the medical prognosis, that the terminally-ill patient has received information about other care and treatment options, and that the patient is making a voluntary and informed decision in requesting the medication; requiring evaluation by a licensed mental health professional if either physician believes the patient may not be mentally capable; granting immunity from civil and criminal liability and professional discipline to any person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who has a medical prognosis of death by terminal illness within six months to receive a prescription from a licensed physician for medication that can be self-administered to bring about death; and in connection therewith, requiring two licensed physicians to confirm the medical prognosis, that the terminally-ill patient has received information about other care and treatment options, and that the patient is making a voluntary and informed decision in requesting the medication; requiring evaluation by a licensed mental health professional if either physician believes the patient may not be mentally capable; granting immunity from civil and criminal liability and professional discipline to any person who in good faith assists in providing access to or is present when a patient self-administers the medication; and establishing criminal penalties for persons who knowingly violate statutes relating to the request for the medication?

Hearing April 6, 2016:

Single subject approved; staff draft amended; titles set.

¹ Unofficially captioned “**Medical Aid in Dying**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Hearing adjourned 3:02 p.m.

Rehearing April 20, 2016:

Motions for Rehearing granted only to the extent that the Board made changes to [REDACTED] titles; denied in all other respects.

Hearing adjourned 10:08 a.m.



DATE FILED: April 28, 2016 1:17 PM

STATE OF COLORADO

DEPARTMENT OF STATE CERTIFICATE

I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:
the attached are true and exact copies of the filed text, motions for rehearing, and the rulings thereon
of the Title Board for Proposed Initiative "2015-2016 #124 'Medical Aid in Dying'".....

.....

IN TESTIMONY WHEREOF I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 27th day of April, 2016.

Wayne W. Williams

SECRETARY OF STATE



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FINAL

Colorado Secretary of State

Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 48 of title 25 as follows:

ARTICLE 48

END-OF-LIFE OPTIONS

25-48-101. SHORT TITLE. THE SHORT TITLE OF THIS ARTICLE IS THE "COLORADO END-OF-LIFE OPTIONS ACT".

25-48-102. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER.
- (2) "ATTENDING PHYSICIAN" MEANS A PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF A TERMINALLY ILL INDIVIDUAL AND THE TREATMENT OF THE INDIVIDUAL'S TERMINAL ILLNESS.
- (3) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A TERMINALLY ILL INDIVIDUAL'S ILLNESS.
- (4) "HEALTHCARE PROVIDER" OR "PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES A HEALTH CARE FACILITY, INCLUDING A LONG-TERM CARE FACILITY AS DEFINED IN SECTION 25-3-103.7 (1) (f.3) AND A CONTINUING CARE RETIREMENT COMMUNITY AS DESCRIBED IN SECTION 25.5-6-203 (1)(c)(i), C.R.S..
- (5) "INFORMED DECISION" MEANS A DECISION THAT IS:
 - (a) MADE BY AN INDIVIDUAL TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION THAT THE QUALIFIED INDIVIDUAL MAY DECIDE TO SELF-ADMINISTER TO END HIS OR HER LIFE IN A PEACEFUL MANNER;
 - (b) BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS; AND
 - (c) MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE INDIVIDUAL OF:
 - (I) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;
 - (II) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;
 - (III) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;
 - (IV) THE CHOICES AVAILABLE TO AN INDIVIDUAL THAT DEMONSTRATE HIS OR HER SELF-DETERMINATION AND INTENT TO END HIS OR HER LIFE IN A PEACEFUL MANNER, INCLUDING THE ABILITY TO CHOOSE WHETHER TO:
 - (A) REQUEST MEDICAL AID IN DYING;

(B) OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE;

(C) FILL THE PRESCRIPTION AND POSSESS MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE; AND

(D) ULTIMATELY SELF-ADMINISTER THE MEDICAL AID-IN-DYING MEDICATION TO BRING ABOUT A PEACEFUL DEATH; AND

(V) ALL FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.

(6) "LICENSED MENTAL HEALTH PROFESSIONAL" MEANS A PSYCHIATRIST LICENSED UNDER ARTICLE 36 OF TITLE 12, C.R.S., OR A PSYCHOLOGIST LICENSED UNDER PART 3 OF ARTICLE 43 OF TITLE 12, C.R.S..

(7) "MEDICAL AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICAL AID-IN-DYING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE INDIVIDUAL MAY CHOOSE TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH.

(8) "MEDICAL AID-IN-DYING MEDICATION" MEANS MEDICATION PRESCRIBED BY A PHYSICIAN PURSUANT TO THIS ARTICLE TO PROVIDE MEDICAL AID IN DYING TO A QUALIFIED INDIVIDUAL.

(9) "MEDICALLY CONFIRMED" MEANS THAT A CONSULTING PHYSICIAN WHO HAS EXAMINED THE TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS HAS CONFIRMED THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.

(10) "MENTAL CAPACITY" OR "MENTALLY CAPABLE" MEANS THAT IN THE OPINION OF AN INDIVIDUAL'S ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE INDIVIDUAL HAS THE ABILITY TO MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTH CARE PROVIDERS.

(11) "MENTAL DISORDER" MEANS A PSYCHIATRIC OR PSYCHOLOGICAL ILLNESS AS CLASSIFIED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS THAT IMPAIRS THE ABILITY TO FUNCTION IN ORDINARY LIFE.

(12) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY LICENSED TO PRACTICE MEDICINE BY THE COLORADO MEDICAL BOARD

(13) "PROGNOSIS OF SIX MONTHS OR LESS" MEANS A PROGNOSIS RESULTING FROM A TERMINAL ILLNESS THAT THE ILLNESS WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH WITHIN SIX MONTHS AND WHICH HAS BEEN MEDICALLY CONFIRMED.

(14) "QUALIFIED INDIVIDUAL" MEANS A TERMINALLY ILL ADULT WITH A PROGNOSIS OF SIX MONTHS OR LESS, WHO HAS MENTAL CAPACITY, HAS MADE AN INFORMED DECISION, IS A RESIDENT OF THE STATE, AND HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE IN A PEACEFUL MANNER.

(15) "RESIDENT" MEANS AN INDIVIDUAL WHO IS ABLE TO DEMONSTRATE RESIDENCY IN COLORADO BY PROVIDING ANY OF THE FOLLOWING DOCUMENTATION TO HIS OR HER ATTENDING PHYSICIAN:

(a) A COLORADO DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED PURSUANT TO ARTICLE 2 OF TITLE 42, C.R.S.;

- (b) A COLORADO VOTER REGISTRATION CARD OR OTHER DOCUMENTATION SHOWING THE INDIVIDUAL IS REGISTERED TO VOTE IN COLORADO;
- (c) EVIDENCE THAT THE INDIVIDUAL OWNS OR LEASES PROPERTY IN COLORADO; OR
- (d) A CDLORADO INCOME TAX RETURN FOR THE MOST RECENT TAX YEAR.
- (16) "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S AFFIRMATIVE, CONSCIOUS, AND PHYSICAL ACT OF ADMINISTERING THE MEDICAL AID-IN-DYING MEDICATION TO HIMSELF OR HERSELF TO BRING ABOUT HIS OR HER OWN DEATH.
- (17) "TERMINAL ILLNESS" MEANS AN INCURABLE AND IRREVERSIBLE ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH.

25-48-103. RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION. (1) AN ADULT RESIDENT OF COLORADO MAY MAKE A REQUEST, IN ACCORDANCE WITH SECTIONS 25-48-104 AND 25-48-112, TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION IF:

- (a) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DIAGNOSED THE INDIVIDUAL WITH A TERMINAL ILLNESS WITH A PROGNOSIS OF SIX MONTHS OR LESS;
- (b) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DETERMINED THE INDIVIDUAL HAS MENTAL CAPACITY; AND
- (c) THE INDIVIDUAL HAS VOLUNTARILY EXPRESSED THE WISH TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION.

(2) THE RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION DOES NOT EXIST BECAUSE OF AGE OR DISABILITY.

25-48-104. REQUEST PROCESS - WITNESS REQUIREMENTS. (1) IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, AN INDIVIDUAL WHO SATISFIES THE REQUIREMENTS IN SECTION 25-48-103 MUST MAKE TWO ORAL REQUESTS, SEPARATED BY AT LEAST FIFTEEN DAYS, AND A VALID WRITTEN REQUEST TO HIS OR HER ATTENDING PHYSICIAN.

(2)(a) TO BE VALID, A WRITTEN REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MUST BE:

- (I) SUBSTANTIALLY IN THE SAME FORM AS SET FORTH IN SECTION 25-48-112 ;
- (II) SIGNED AND DATED BY THE INDIVIDUAL SEEKING THE MEDICAL AID-IN-DYING MEDICATION; AND
- (III) WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE INDIVIDUAL, ATTEST TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THAT THE INDIVIDUAL IS:
 - (A) MENTALLY CAPABLE;
 - (B) ACTING VOLUNTARILY; AND
 - (C) NOT BEING COERCED TO SIGN THE REQUEST.
- (b) OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT BE:
 - (i) RELATED TO THE INDIVIDUAL BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION;
 - (ii) AN INDIVIDUAL WHO, AT THE TIME THE REQUEST IS SIGNED, IS ENTITLED, UNDER A WILL OR BY OPERATION OF LAW, TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON HIS OR HER DEATH; OR

(III) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTHCARE FACILITY WHERE THE INDIVIDUAL IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

(c) NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

25-48-105. RIGHT TO RESCIND REQUEST - REQUIREMENT TO OFFER OPPORTUNITY TO RESCIND.

(1) AT ANY TIME, AN INDIVIDUAL MAY RESCIND HIS OR HER REQUEST FOR MEDICAL AID-IN-DYING MEDICATION WITHOUT REGARD TO THE INDIVIDUAL'S MENTAL STATE.

(2) AN ATTENDING PHYSICIAN SHALL NOT WRITE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE UNLESS THE ATTENDING PHYSICIAN OFFERS THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST FOR THE MEDICAL AID-IN-DYING MEDICATION.

25-48-106. ATTENDING PHYSICIAN RESPONSIBILITIES. (1) THE ATTENDING PHYSICIAN SHALL:

(a) MAKE THE INITIAL DETERMINATION OF WHETHER AN INDIVIDUAL REQUESTING MEDICAL AID-IN-DYING MEDICATION HAS A TERMINAL ILLNESS, HAS A PROGNOSIS OF SIX MONTHS OR LESS, IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND HAS MADE THE REQUEST VOLUNTARILY;

(b) REQUEST THAT THE INDIVIDUAL DEMONSTRATE COLORADO RESIDENCY BY PROVIDING DOCUMENTATION AS DESCRIBED IN SECTION 25-48-102 (14) ;

(c) PROVIDE CARE THAT CONFORMS TO ESTABLISHED MEDICAL STANDARDS AND ACCEPTED MEDICAL GUIDELINES;

(d) REFER THE INDIVIDUAL TO A CONSULTING PHYSICIAN FOR MEDICAL CONFIRMATION OF THE DIAGNOSIS AND PROGNOSIS AND FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND ACTING VOLUNTARILY;

(e) PROVIDE FULL, INDIVIDUAL-CENTERED DISCLOSURES TO ENSURE THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION BY DISCUSSING WITH THE INDIVIDUAL:

(I) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;

(II) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL;

(III) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;

(IV) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED; AND

(V) THE POSSIBILITY THAT THE INDIVIDUAL CAN OBTAIN THE MEDICAL AID-IN-DYING MEDICATION BUT CHOOSE NOT TO USE IT;

(f) REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO SECTION 25-48-108 IF THE ATTENDING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A MENTAL DISORDER THAT RENDERS THE INDIVIDUAL NOT MENTALLY CAPABLE OF MAKING AN INFORMED DECISION;

(g) CONFIRM THAT THE INDIVIDUAL'S REQUEST DOES NOT ARISE FROM COERCION OR UNDUE INFLUENCE BY ANOTHER PERSON BY DISCUSSING WITH THE INDIVIDUAL, OUTSIDE THE PRESENCE OF OTHER PERSONS, WHETHER THE INDIVIDUAL IS FEELING COERCED OR UNDULY INFLUENCED BY ANOTHER PERSON;

(h) COUNSEL THE INDIVIDUAL ABOUT THE IMPORTANCE OF:

(I) HAVING ANOTHER PERSON PRESENT WHEN THE INDIVIDUAL SELF-ADMINISTERS THE MEDICAL AID-IN-DYING MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE;

(II) NOT TAKING THE MEDICAL AID-IN-DYING MEDICATION IN A PUBLIC PLACE;

(III) SAFE-KEEPING AND PROPER DISPOSAL OF UNUSED MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH SECTION 25-48-120 ; AND

(IV) NOTIFYING HIS OR HER NEXT OF KIN OF THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION;

(i) INFORM THE INDIVIDUAL THAT HE OR SHE MAY RESCIND THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AT ANY TIME AND IN ANY MANNER

(j) VERIFY, IMMEDIATELY PRIOR TO WRITING THE PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION, THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;

(k) ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION; AND

(l) EITHER:

(I) DISPENSE MEDICAL AID-IN-DYING MEDICATIONS DIRECTLY TO THE QUALIFIED INDIVIDUAL, INCLUDING ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE INDIVIDUAL'S DISCOMFORT, IF THE ATTENDING PHYSICIAN HAS A CURRENT DRUG ENFORCEMENT ADMINISTRATION CERTIFICATE AND COMPLIES WITH ANY APPLICABLE ADMINISTRATIVE RULE; OR

(II) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY, BY MAIL, OR THROUGH AUTHORIZED ELECTRONIC TRANSMISSION IN THE MANNER PERMITTED UNDER ARTICLE 42.5 OF TITLE 12 , C.R.S., TO A LICENSED PHARMACIST, WHO SHALL DISPENSE THE MEDICAL AID-IN-DYING MEDICATION TO THE QUALIFIED INDIVIDUAL, THE ATTENDING PHYSICIAN, OR AN INDIVIDUAL EXPRESSLY DESIGNATED BY THE QUALIFIED INDIVIDUAL.

25-48-107. CONSULTING PHYSICIAN RESPONSIBILITIES. BEFORE AN INDIVIDUAL WHO IS REQUESTING MEDICAL AID-IN-DYING MEDICATION MAY RECEIVE A PRESCRIPTION FOR THE MEDICAL AID-IN-DYING MEDICATION, A CONSULTING PHYSICIAN MUST:

(1) EXAMINE THE INDIVIDUAL AND HIS OR HER RELEVANT MEDICAL RECORDS;

(2) CONFIRM, IN WRITING, TO THE ATTENDING PHYSICIAN:

(a) THAT THE INDIVIDUAL HAS A TERMINAL ILLNESS;

(b) THE INDIVIDUAL HAS A PROGNOSIS OF SIX MONTHS OR LESS;

(c) THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION ; AND

(d) THAT THE INDIVIDUAL IS MENTALLY CAPABLE, OR PROVIDE DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS REFERRED THE INDIVIDUAL FOR FURTHER EVALUATION IN ACCORDANCE WITH SECTION 25-48-108 .

25-48-108. CONFIRMATION THAT INDIVIDUAL IS MENTALLY CAPABLE - REFERRAL TO MENTAL HEALTH PROFESSIONAL. (1) AN ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE FOR AN INDIVIDUAL WITH A TERMINAL ILLNESS UNTIL THE INDIVIDUAL IS DETERMINED TO BE MENTALLY CAPABLE AND MAKING AN INFORMED DECISION, AND THOSE DETERMINATIONS ARE CONFIRMED IN ACCORDANCE WITH THIS SECTION.

(2) IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A MENTAL DISORDER THAT RENDERS THE INDIVIDUAL NOT MENTALLY CAPABLE OF MAKING AN INFORMED DECISION, THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING AN INFORMED DECISION.

(3) A LICENSED MENTAL HEALTH PROFESSIONAL WHO EVALUATES AN INDIVIDUAL UNDER THIS SECTION SHALL COMMUNICATE, IN WRITING, TO THE ATTENDING OR CONSULTING PHYSICIAN WHO REQUESTED THE EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING INFORMED DECISIONS. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE INDIVIDUAL IS NOT MENTALLY CAPABLE OF MAKING INFORMED DECISIONS, THE PERSON SHALL NOT BE DEEMED A QUALIFIED INDIVIDUAL UNDER THIS ARTICLE AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION TO THE INDIVIDUAL.

25-48-109. DEATH CERTIFICATE. (1) UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR THE HOSPICE MEDICAL DIRECTOR SHALL SIGN THE DEATH CERTIFICATE OF A QUALIFIED INDIVIDUAL WHO OBTAINED AND SELF-ADMINISTERED AID-IN-DYING MEDICATION.

(2) WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE, THE CAUSE OF DEATH SHALL BE LISTED AS THE UNDERLYING TERMINAL ILLNESS AND THE DEATH DOES NOT CONSTITUTE GROUNDS FOR POST-MORTEM INQUIRY UNDER SECTION 30-10-606 (1), C.R.S..

25-48-110. INFORMED DECISION REQUIRED. (1) AN INDIVIDUAL WITH A TERMINAL ILLNESS IS NOT A QUALIFIED INDIVIDUAL AND MAY NOT RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNLESS HE OR SHE HAS MADE AN INFORMED DECISION.

(2) IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL VERIFY THAT THE INDIVIDUAL WITH A TERMINAL ILLNESS IS MAKING AN INFORMED DECISION.

25-48-111. MEDICAL RECORD DOCUMENTATION REQUIREMENTS - REPORTING REQUIREMENTS - DEPARTMENT COMPLIANCE REVIEWS - RULES. (1) THE ATTENDING PHYSICIAN SHALL DOCUMENT IN THE INDIVIDUAL'S MEDICAL RECORD, THE FOLLOWING INFORMATION:

- (a) DATES OF ALL ORAL REQUESTS;
- (b) A VALID WRITTEN REQUEST;

- (c) THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION OF MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING A VOLUNTARY REQUEST AND AN INFORMED DECISION;
 - (d) THE CONSULTING PHYSICIAN'S CONFIRMATION OF DIAGNOSIS AND PROGNOSIS, MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;
 - (e) IF APPLICABLE, WRITTEN CONFIRMATION OF MENTAL CAPACITY FROM A LICENSED MENTAL HEALTH PROFESSIONAL ;
 - (f) A NOTATION OF NOTIFICATION OF THE RIGHT TO RESCIND A REQUEST MADE PURSUANT TO THIS ARTICLE; AND
 - (g) A NOTATION BY THE ATTENDING PHYSICIAN THAT ALL REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN SATISFIED; INDICATING STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICAL AID-IN-DYING MEDICATIONS PRESCRIBED AND WHEN.
- (2)(a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS MAINTAINED PURSUANT TO THIS ARTICLE TO ENSURE COMPLIANCE. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF INFORMATION DEFINED IN SUB-SECTION (1) OF THIS SECTION. EXCEPT AS OTHERWISE REQUIRED BY LAW, THE INFORMATION COLLECTED BY THE DEPARTMENT IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION. HOWEVER, THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS SUBSECTION (2).
- (b) THE DEPARTMENT SHALL REQUIRE ANY HEALTHCARE PROVIDER, UPON DISPENSING A MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, TO FILE A COPY OF A DISPENSING RECORD WITH THE DEPARTMENT. THE DISPENSING RECORD IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION.

25-48-112. FORM OF WRITTEN REQUEST. (1) A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AUTHORIZED BY THIS ARTICLE MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END MY LIFE
IN A PEACEFUL MANNER

I, _____ AM AN ADULT OF SOUND MIND. I AM
SUFFERING
FROM _____, WHICH MY ATTENDING PHYSICIAN HAS
DETERMINED IS A TERMINAL ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED. I HAVE BEEN
FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS, THE NATURE OF THE
MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE
EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT
OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN
CONTROL.

I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICAL AID-IN-DYING MEDICATION
THAT WILL END MY LIFE IN A PEACEFUL MANNER IF I CHOOSE TO TAKE IT, AND I AUTHORIZE MY
ATTENDING PHYSICIAN TO CONTACT ANY PHARMACIST ABOUT MY REQUEST.

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

I UNDERSTAND THE SERIOUSNESS OF THIS REQUEST, AND I EXPECT TO DIE IF I TAKE THE AID-IN-DYING MEDICATION PRESCRIBED.

I FURTHER UNDERSTAND THAT ALTHOUGH MOST DEATHS OCCUR WITHIN THREE HOURS, MY DEATH MAY TAKE LONGER, AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY.

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

SIGNED: _____

DATED: _____

DECLARATION OF WITNESSES

WE DECLARE THAT THE INDIVIDUAL SIGNING THIS REQUEST:

IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY;
SIGNED THIS REQUEST IN OUR PRESENCE;

APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, COERCION, OR UNDUE INFLUENCE; AND

I AM NOT THE ATTENDING PHYSICIAN FOR THE INDIVIDUAL.

_____ WITNESS 1/DATE

_____ WITNESS 2/DATE

NOTE: OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT:

BE A RELATIVE (BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION) OF THE INDIVIDUAL SIGNING THIS REQUEST; BE ENTITLED TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON DEATH; OR OWN, OPERATE, OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE INDIVIDUAL IS A PATIENT OR RESIDENT.

AND NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

25-48-113. STANDARD OF CARE. (1) PHYSICIANS AND HEALTH CARE PROVIDERS SHALL PROVIDE MEDICAL SERVICES UNDER THIS ACT THAT MEET OR EXCEED THE STANDARD OF CARE FOR END-OF-LIFE MEDICAL CARE.

(2) WHEN A HEALTH CARE PROVIDER MAKES A DIAGNOSIS THAT AN INDIVIDUAL HAS A TERMINAL ILLNESS AND A PROGNOSIS OF SIX MONTHS OR LESS, THE HEALTH CARE PROVIDER, UPON THE INDIVIDUAL'S REQUEST, SHALL PROVIDE THE INDIVIDUAL WITH COMPREHENSIVE INFORMATION AND COUNSELING, IN ACCORDANCE WITH THIS SECTION, REGARDING LEGAL END-OF-LIFE MEDICAL CARE OPTIONS.

25-48-114. EFFECT ON WILLS, CONTRACTS, AND STATUTES. (1) A PROVISION IN A CONTRACT, WILL, OR OTHER AGREEMENT, WHETHER WRITTEN OR ORAL, THAT WOULD AFFECT WHETHER AN INDIVIDUAL MAY MAKE OR RESCIND A REQUEST FOR MEDICAL AID IN DYING PURSUANT TO THIS ARTICLE IS INVALID.

(2) AN OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE.

25-48-115. INSURANCE OR ANNUITY POLICIES. (1) THE SALE, PROCUREMENT, OR ISSUANCE OF, OR THE RATE CHARGED FOR, ANY LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY MUST NOT BE CONDITIONED UPON, OR AFFECTED BY, AN INDIVIDUAL'S ACT OF MAKING OR RESCINDING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH THIS ARTICLE.

(2) A QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE DOES NOT AFFECT A LIFE, HEALTH, OR ACCIDENT INSURANCE OR ANNUITY POLICY.

(3) AN INSURER SHALL NOT DENY OR OTHERWISE ALTER HEALTH CARE BENEFITS AVAILABLE UNDER A POLICY OF SICKNESS AND ACCIDENT INSURANCE TO AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS COVERED UNDER THE POLICY, BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

(4) AN INDIVIDUAL WITH A TERMINAL ILLNESS WHO IS A RECIPIENT OF MEDICAL ASSISTANCE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, C.R.S. SHALL NOT BE DENIED BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM OR HAVE HIS OR HER BENEFITS UNDER THE PROGRAM OTHERWISE ALTERED BASED ON WHETHER OR NOT THE INDIVIDUAL MAKES A REQUEST PURSUANT TO THIS ARTICLE.

25-48-116. IMMUNITY FOR ACTIONS IN GOOD FAITH - PROHIBITION AGAINST REPRISALS. (1) A PERSON IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR ACTING IN GOOD FAITH UNDER THIS ARTICLE, WHICH INCLUDES BEING PRESENT WHEN A QUALIFIED INDIVIDUAL SELF-ADMINISTERS THE PRESCRIBED MEDICAL AID-IN-DYING MEDICATION.

(2) EXCEPT AS PROVIDED FOR IN SECTION 25-48-118, A HEALTHCARE PROVIDER OR PROFESSIONAL ORGANIZATION OR ASSOCIATION SHALL NOT SUBJECT AN INDIVIDUAL TO ANY OF THE FOLLOWING FOR PARTICIPATING OR REFUSING TO PARTICIPATE IN GOOD-FAITH COMPLIANCE UNDER THIS ARTICLE:

- (a) CENSURE;
- (b) DISCIPLINE;
- (c) SUSPENSION;
- (d) LOSS OF LICENSE, PRIVILEGES, OR MEMBERSHIP; OR
- (e) ANY OTHER PENALTY.

- (3) A REQUEST BY AN INDIVIDUAL FOR, OR THE PROVISION BY AN ATTENDING PHYSICIAN OF, MEDICAL AID-IN-DYING MEDICATION IN GOOD-FAITH COMPLIANCE WITH THIS ARTICLE DOES NOT:
- (a) CONSTITUTE NEGLIGENCE OR ELDER ABUSE FOR ANY PURPOSE OF LAW; OR
 - (b) PROVIDE THE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.
- (4) THIS SECTION DOES NOT LIMIT CIVIL OR CRIMINAL LIABILITY FOR NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT.

25-48-117. NO DUTY TO PRESCRIBE OR DISPENSE. (1) A HEALTHCARE PROVIDER MAY CHOOSE WHETHER TO PARTICIPATE IN PROVIDING MEDICAL AID-IN-DYING MEDICATION TO AN INDIVIDUAL IN ACCORDANCE WITH THIS ARTICLE.

(2) IF A HEALTHCARE PROVIDER IS UNABLE OR UNWILLING TO CARRY OUT AN INDIVIDUAL'S REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MADE IN ACCORDANCE WITH THIS ARTICLE, AND THE INDIVIDUAL TRANSFERS HIS OR HER CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER, UPON REQUEST, A COPY OF THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

25-48-118. HEALTH CARE FACILITY PERMISSIBLE PROHIBITIONS - SANCTIONS IF PROVIDER VIOLATES POLICY. (1) A HEALTH CARE FACILITY MAY PROHIBIT A PHYSICIAN EMPLOYED OR UNDER CONTRACT FROM WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION FOR A QUALIFIED INDIVIDUAL WHO INTENDS TO USE THE MEDICAL AID-IN-DYING MEDICATION ON THE FACILITY'S PREMISES. THE HEALTH CARE FACILITY MUST NOTIFY THE PHYSICIAN IN WRITING OF ITS POLICY WITH REGARD TO PRESCRIPTIONS FOR MEDICAL AID-IN-DYING MEDICATION. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTICE TO THE PHYSICIAN SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY AGAINST THE PHYSICIAN.

(2) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT SUBJECT A PHYSICIAN, NURSE, PHARMACIST, OR OTHER PERSON TO DISCIPLINE, SUSPENSION, LOSS OF LICENSE OR PRIVILEGES, OR ANY OTHER PENALTY OR SANCTION FOR ACTIONS TAKEN IN GOOD-FAITH RELIANCE ON THIS ARTICLE OR FOR REFUSING TO ACT UNDER THIS ARTICLE.

(3) A HEALTH CARE FACILITY MUST NOTIFY PATIENTS IN WRITING OF ITS POLICY WITH REGARD TO MEDICAL AID-IN-DYING. A HEALTH CARE FACILITY THAT FAILS TO PROVIDE ADVANCE NOTIFICATION TO PATIENTS SHALL NOT BE ENTITLED TO ENFORCE SUCH A POLICY.

25-48-119. LIABILITIES. (1) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401, C.R.S. IF THE PERSON, KNOWINGLY OR INTENTIONALLY CAUSES AN INDIVIDUAL'S DEATH BY:

- (a) FORGING OR ALTERING A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION TO END AN INDIVIDUAL'S LIFE WITHOUT THE INDIVIDUAL'S AUTHORIZATION; OR
- (b) CONCEALING OR DESTROYING A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(2) A PERSON COMMITS A CLASS 2 FELONY AND IS SUBJECT TO PUNISHMENT IN ACCORDANCE WITH SECTION 18-1.3-401, C.R.S. IF THE PERSON KNOWINGLY OR INTENTIONALLY COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL WITH A TERMINAL ILLNESS TO:

(a) REQUEST MEDICAL AID-IN-DYING MEDICATION FOR THE PURPOSE OF ENDING THE TERMINALLY ILL INDIVIDUAL'S LIFE; OR

(b) DESTROY A RESCISSION OF A REQUEST FOR MEDICAL AID-IN-DYING MEDICATION.

(3) NOTHING IN THIS ARTICLE LIMITS FURTHER LIABILITY FOR CIVIL DAMAGES RESULTING FROM OTHER NEGLIGENT CONDUCT OR INTENTIONAL MISCONDUCT BY ANY PERSON.

(4) THE PENALTIES SPECIFIED IN THIS ARTICLE DO NOT PRECLUDE CRIMINAL PENALTIES APPLICABLE UNDER THE "COLORADO CRIMINAL CODE", TITLE 18, C.R.S., FOR CONDUCT THAT IS INCONSISTENT WITH THIS ARTICLE.

25-48-120. SAFE DISPOSAL OF UNUSED MEDICAL AID-IN-DYING MEDICATIONS. A PERSON WHO HAS CUSTODY OR CONTROL OF MEDICAL AID-IN-DYING MEDICATION DISPENSED UNDER THIS ARTICLE THAT THE TERMINALLY ILL INDIVIDUAL DECIDES NOT TO USE OR THAT REMAINS UNUSED AFTER THE TERMINALLY ILL INDIVIDUAL'S DEATH SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION EITHER BY:

(1) RETURNING THE UNUSED MEDICAL AID-IN-DYING MEDICATION TO THE ATTENDING PHYSICIAN WHO PRESCRIBED THE MEDICAL AID-IN-DYING MEDICATION, WHO SHALL DISPOSE OF THE UNUSED MEDICAL AID-IN-DYING MEDICATION IN THE MANNER REQUIRED BY LAW; OR

(2) LAWFUL MEANS IN ACCORDANCE WITH SECTION 25-15-328, C.R.S. OR ANY OTHER STATE OR FEDERALLY APPROVED MEDICATION TAKE-BACK PROGRAM AUTHORIZED UNDER THE FEDERAL "SECURE AND RESPONSIBLE DRUG DISPOSAL ACT OF 2010", 21 U.S.C. (822), (828), AND 28 U.S.C. (994) AND REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

25-48-121. ACTIONS COMPLYING WITH ARTICLE NOT A CRIME. NOTHING IN THIS ARTICLE AUTHORIZES A PHYSICIAN OR ANY OTHER PERSON TO END AN INDIVIDUAL'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR EUTHANASIA. ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING, HOMICIDE, OR ELDER ABUSE UNDER THE "COLORADO CRIMINAL CODE", AS SET FORTH IN TITLE 18, C.R.S..

25-48-122. CLAIMS BY GOVERNMENT ENTITY FOR COSTS. A GOVERNMENT ENTITY THAT INCURS COSTS RESULTING FROM AN INDIVIDUAL TERMINATING HIS OR HER LIFE PURSUANT TO THIS ARTICLE IN A PUBLIC PLACE HAS A CLAIM AGAINST THE ESTATE OF THE INDIVIDUAL TO RECOVER THE COSTS AND REASONABLE ATTORNEY FEES RELATED TO ENFORCING THE CLAIM.

25-48-123. NO EFFECT ON ADVANCE MEDICAL DIRECTIVES. NOTHING IN THIS ARTICLE SHALL CHANGE THE LEGAL EFFECT OF:

(1) A DECLARATION MADE UNDER ARTICLE 18 OF TITLE 15, C.R.S., DIRECTING THAT LIFE-SUSTAINING PROCEDURES BE WITHHELD OR WITHDRAWN;

- (2) A CARDIOPULMONARY RESUSCITATION DIRECTIVE EXECUTED UNDER ARTICLE 18.6 OF TITLE 15, C.R.S.; OR
- (3) AN ADVANCE MEDICAL DIRECTIVE EXECUTED UNDER ARTICLE 18.7 F TITLE 15, C.R.S..

2015-2016 #124 - Amended

RECEIVED

MAR 25 2016

Colorado Secretary of State

S. WARD

2:15 P.M.

Be it enacted by the voters ~~People~~ of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add ~~article~~Article 48 of ~~title~~Title 25 as follows:

ARTICLE 48

END-OF-LIFE OPTIONS

25-48-101. ~~SHORT TITLE-TITLE~~. THE SHORT ~~TITLE-TITLE~~ OF THIS ARTICLE IS THE "COLORADO END-OF-LIFE OPTIONS ACT".

25-48-102. **DEFINITIONS.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER.
- (2) "ATTENDING PHYSICIAN" MEANS A PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF A TERMINALLY ILL INDIVIDUAL AND THE TREATMENT OF THE INDIVIDUAL'S TERMINAL ILLNESS.
- (3) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A TERMINALLY ILL INDIVIDUAL'S ILLNESS.
- (4) ~~"MENTAL CAPACITY" OR "MENTALLY CAPABLE"~~ MEANS THAT IN THE OPINION OF AN INDIVIDUAL'S ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE INDIVIDUAL HAS THE ABILITY TO MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTHCARE PROVIDERS, INCLUDING COMMUNICATION THROUGH A PERSON FAMILIAR WITH THE INDIVIDUAL'S MANNER OF COMMUNICATING IF THAT PERSON IS AVAILABLE, AND AS PURSUANT TO THE COLORADO MEDICAL TREATMENT DECISIONS ~~ACT~~, SECTION 15-18-103(6) OF THE COLORADO REVISED STATUTES.
- (4) "HEALTHCARE PROVIDER" OR "PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES A HEALTH CARE FACILITY, INCLUDING A LONG-TERM CARE FACILITY AS DEFINED IN SECTION 25-3-103.7 (1) (f.3) ~~AND A CONTINUING CARE RETIREMENT COMMUNITY AS DESCRIBED IN SECTION 25.5-6-203 (1)(c)(i), C.R.S. OF THE COLORADO REVISED STATUTES.~~
- (5) "INFORMED DECISION" MEANS A DECISION THAT IS:
 - (a) MADE BY AN INDIVIDUAL TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION THAT THE QUALIFIED INDIVIDUAL MAY DECIDE TO SELF-ADMINISTER TO END HIS OR HER LIFE IN A PEACEFUL MANNER;
 - (b) BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS; AND
 - (c) MADE AFTER THE ATTENDING PHYSICIAN FULLY INFORMS THE INDIVIDUAL OF:
 - (i) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;
 - (ii) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;

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(III~~HH~~) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;

(IV~~W~~) THE CHOICES AVAILABLE TO AN INDIVIDUAL THAT DEMONSTRATE HIS OR HER SELF-DETERMINATION AND INTENT TO END HIS OR HER LIFE IN A PEACEFUL MANNER, INCLUDING THE ABILITY TO CHOOSE WHETHER TO:

(A~~A~~) REQUEST MEDICAL AID IN DYING;

(B~~B~~) OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE;

(C~~C~~) FILL THE PRESCRIPTION AND POSSESS MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE; AND

(D~~D~~) ULTIMATELY SELF-ADMINISTER THE MEDICAL AID-IN-DYING MEDICATION TO BRING ABOUT A PEACEFUL DEATH; AND

(V) ALL FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, ~~P~~PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL.

(6~~7~~) "LICENSED MENTAL HEALTH PROFESSIONAL" FOR THE PURPOSES OF THIS ARTICLE MEANS A PSYCHIATRIST LICENSED UNDER ~~A~~ARTICLE 36 OF ~~T~~TITLE 12, C.R.S. OF THE COLORADO REVISED STATUTES, OR A PSYCHOLOGIST LICENSED UNDER ~~P~~PART 3 OF ~~A~~ARTICLE 43 OF ~~T~~TITLE 12, C.R.S. OF THE COLORADO REVISED STATUTES.

(7~~8~~) "MEDICAL AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICAL AID-IN-DYING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE INDIVIDUAL MAY CHOOSE TO SELF-ADMINISTER TO BRING ABOUT A PEACEFUL DEATH.

(8~~9~~) "MEDICAL AID-IN-DYING MEDICATION" MEANS MEDICATION PRESCRIBED BY A PHYSICIAN PURSUANT TO THIS ARTICLE TO PROVIDE MEDICAL AID IN DYING TO A QUALIFIED INDIVIDUAL.

(9~~10~~) "MEDICALLY CONFIRMED" MEANS THAT A CONSULTING PHYSICIAN WHO HAS EXAMINED THE TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT MEDICAL RECORDS HAS CONFIRMED THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN.

(10~~4~~) "MENTAL CAPACITY" OR "MENTALLY CAPABLE" MEANS THAT IN THE OPINION OF AN INDIVIDUAL'S ATTENDING PHYSICIAN, CONSULTING PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST, THE INDIVIDUAL HAS THE ABILITY TO MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTH CARE PROVIDERS.

(11~~1~~) "MENTAL DISORDER" MEANS A PSYCHIATRIC OR PSYCHOLOGICAL ILLNESS AS CLASSIFIED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS THAT IMPAIRS THE ABILITY TO FUNCTION IN ORDINARY LIFE.

(12~~4~~) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY LICENSED TO PRACTICE MEDICINE BY THE ~~B~~BOARD OF ~~M~~MEDICAL ~~E~~EXAMINERS FOR THE ~~S~~STATE OF COLORADO MEDICAL BOARD.

(13~~2~~) "PROGNOSIS OF SIX MONTHS OR LESS" MEANS A PROGNOSIS RESULTING FROM A TERMINAL ILLNESS THAT THE ILLNESS WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH WITHIN SIX MONTHS AND WHICH HAS BEEN MEDICALLY CONFIRMED.

(143) "QUALIFIED INDIVIDUAL" MEANS A TERMINALLY ILL ADULT WITH A PROGNOSIS OF SIX MONTHS OR LESS, WHO HAS MENTAL CAPACITY, HAS MADE AN INFORMED DECISION, IS A RESIDENT OF THE STATE, AND HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION TO END HIS OR HER LIFE IN A PEACEFUL MANNER.

(154) "RESIDENT" MEANS AN INDIVIDUAL WHO IS ABLE TO DEMONSTRATE RESIDENCY IN COLORADO BY PROVIDING ANY OF THE FOLLOWING DOCUMENTATION TO HIS OR HER ATTENDING PHYSICIAN:

(a) A COLORADO DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED PURSUANT TO ARTICLE 2 OF ~~TITLE 42, C.R.S. OF THE COLORADO REVISED STATUTES;~~

(b) A COLORADO VOTER REGISTRATION CARD OR OTHER DOCUMENTATION SHOWING THE INDIVIDUAL IS REGISTERED TO VOTE IN COLORADO;

(c) EVIDENCE THAT THE INDIVIDUAL OWNS OR LEASES PROPERTY IN COLORADO; OR

(d) A COLORADO INCOME TAX RETURN FOR THE MOST RECENT TAX YEAR.

(165) "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S AFFIRMATIVE, CONSCIOUS, AND PHYSICAL ACT OF ADMINISTERING THE MEDICAL AID-IN-DYING MEDICATION TO HIMSELF OR HERSELF TO BRING ABOUT HIS OR HER OWN DEATH.

(176) "TERMINAL ILLNESS" MEANS AN INCURABLE AND IRREVERSIBLE ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH.

25-48-103. RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION.

(1) AN ADULT RESIDENT OF COLORADO MAY MAKE A REQUEST, IN ACCORDANCE WITH SECTIONS 25-48-104 AND 25-48-112 ~~OF THIS PART,~~ TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION IF:

(a) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DIAGNOSED THE INDIVIDUAL WITH A TERMINAL ILLNESS WITH A PROGNOSIS OF SIX MONTHS OR LESS;

(b) THE INDIVIDUAL'S ATTENDING PHYSICIAN HAS DETERMINED THE INDIVIDUAL HAS MENTAL CAPACITY; AND

(c) THE INDIVIDUAL HAS VOLUNTARILY EXPRESSED THE WISH TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION.

(2) THE RIGHT TO REQUEST MEDICAL AID-IN-DYING MEDICATION DOES NOT EXIST BECAUSE OF AGE OR DISABILITY.

25-48-104. REQUEST PROCESS - WITNESS REQUIREMENTS.

(1) IN ORDER TO RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, AN INDIVIDUAL WHO SATISFIES THE REQUIREMENTS IN SECTION 25-48-103 ~~OF THIS PART~~ MUST MAKE TWO ORAL REQUESTS, SEPARATED BY AT LEAST FIFTEEN DAYS, AND A VALID WRITTEN REQUEST TO HIS OR HER ATTENDING PHYSICIAN.

(2)(a) TO BE VALID, A WRITTEN REQUEST FOR MEDICAL AID-IN-DYING MEDICATION MUST BE:

(i) SUBSTANTIALLY IN THE SAME FORM AS SET FORTH IN SECTION 25-48-112 ~~OF THIS PART;~~

(IIH) SIGNED AND DATED BY THE INDIVIDUAL SEEKING THE MEDICAL AID-IN-DYING MEDICATION; AND

(IIIH) WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE INDIVIDUAL, ATTEST TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THAT THE INDIVIDUAL IS:

(AA) MENTALLY CAPABLE;

(BB) ACTING VOLUNTARILY; AND

(CC) NOT BEING COERCED TO SIGN THE REQUEST.

(b) OF THE TWO WITNESSES TO THE WRITTEN REQUEST, AT LEAST ONE MUST NOT BE:

(i) RELATED TO THE INDIVIDUAL BY BLOOD, MARRIAGE, CIVIL UNION, OR ADOPTION;

(ii) AN INDIVIDUAL WHO, AT THE TIME THE REQUEST IS SIGNED, IS ENTITLED, UNDER A WILL OR BY OPERATION OF LAW, TO ANY PORTION OF THE INDIVIDUAL'S ESTATE UPON HIS OR HER DEATH; OR

(iii) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTHCARE FACILITY WHERE THE INDIVIDUAL IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

(c) NEITHER THE INDIVIDUAL'S ATTENDING PHYSICIAN NOR A PERSON AUTHORIZED DESIGNATED AS THE INDIVIDUAL'S QUALIFIED POWER OF ATTORNEY OR DURABLE MEDICAL POWER OF ATTORNEY SHALL SERVE AS A WITNESS TO THE WRITTEN REQUEST.

25-48-105. RIGHT TO RESCIND REQUEST - REQUIREMENT TO OFFER OPPORTUNITY TO RESCIND.

(1) AT ANY TIME, AN INDIVIDUAL MAY RESCIND HIS OR HER REQUEST FOR MEDICAL AID-IN-DYING MEDICATION WITHOUT REGARD TO THE INDIVIDUAL'S MENTAL STATE.

(2) AN ATTENDING PHYSICIAN SHALL NOT WRITE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE UNLESS THE ATTENDING PHYSICIAN OFFERS THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST FOR THE MEDICAL AID-IN-DYING MEDICATION.

25-48-106. ATTENDING PHYSICIAN RESPONSIBILITIES.

(1) THE ATTENDING PHYSICIAN SHALL:

(a) MAKE THE INITIAL DETERMINATION OF WHETHER AN INDIVIDUAL REQUESTING MEDICAL AID-IN-DYING MEDICATION HAS A TERMINAL ILLNESS, HAS A PROGNOSIS OF SIX MONTHS OR LESS, IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND HAS MADE THE REQUEST VOLUNTARILY;

(b) REQUEST THAT THE INDIVIDUAL DEMONSTRATE COLORADO RESIDENCY BY PROVIDING DOCUMENTATION AS DESCRIBED IN SECTION 25-48-102 (14) ~~OF THIS PART~~;

(c) PROVIDE CARE THAT CONFORMS TO ESTABLISHED MEDICAL STANDARDS AND ACCEPTED MEDICAL GUIDELINES;

(d) REFER THE INDIVIDUAL TO A CONSULTING PHYSICIAN FOR MEDICAL CONFIRMATION OF THE DIAGNOSIS AND PROGNOSIS AND FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE, IS MAKING AN INFORMED DECISION, AND ACTING VOLUNTARILY;

(e) PROVIDE FULL, INDIVIDUAL-CENTERED DISCLOSURES TO ENSURE THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION BY DISCUSSING WITH THE INDIVIDUAL:

(i) HIS OR HER MEDICAL DIAGNOSIS AND PROGNOSIS OF SIX MONTHS OR LESS;

- (IIH) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING COMFORT CARE, PALLIATIVE CARE, HOSPICE CARE, AND PAIN CONTROL;
- (IIIH) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED;
- (IV) THE PROBABLE RESULT OF TAKING THE MEDICAL AID-IN-DYING MEDICATION TO BE PRESCRIBED; AND
- (V) THE POSSIBILITY THAT THE INDIVIDUAL CAN OBTAIN THE MEDICAL AID-IN-DYING MEDICATION BUT CHOOSE NOT TO USE IT;
- (f) REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL PURSUANT TO SECTION 25-48-108 ~~OF THIS PART~~ IF THE ATTENDING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A MENTAL DISORDER ~~PSYCHOLOGICAL OR PSYCHIATRIC STATE CAUSING IMPAIRED JUDGMENT THAT RENDERES THE INDIVIDUAL NOT MENTALLY CAPABLE OF MAKING AN INFORMED DECISION;~~
- (g) CONFIRM THAT THE INDIVIDUAL'S REQUEST DOES NOT ARISE FROM COERCION OR UNDUE INFLUENCE BY ANOTHER PERSON BY DISCUSSING WITH THE INDIVIDUAL, OUTSIDE THE PRESENCE OF OTHER PERSONS, WHETHER THE INDIVIDUAL IS FEELING COERCED OR UNDULY INFLUENCED BY ANOTHER PERSON;
- (h) COUNSEL THE INDIVIDUAL ABOUT THE IMPORTANCE OF:
- (I) HAVING ANOTHER PERSON PRESENT WHEN THE INDIVIDUAL SELF-ADMINISTERS THE MEDICAL AID-IN-DYING MEDICATION PRESCRIBED PURSUANT TO THIS ARTICLE;
- (II) NOT TAKING THE MEDICAL AID-IN-DYING MEDICATION IN A PUBLIC PLACE;
- (III) SAFE-KEEPING AND PROPER DISPOSAL OF UNUSED MEDICAL AID-IN-DYING MEDICATION IN ACCORDANCE WITH SECTION 25-48-120 ~~OF THIS PART~~; AND
- (IV) NOTIFYING HIS OR HER NEXT OF KIN OF THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION;
- (i) INFORM THE INDIVIDUAL THAT HE OR SHE MAY RESCIND THE REQUEST FOR MEDICAL AID-IN-DYING MEDICATION AT ANY TIME AND IN ANY MANNER
- (j) VERIFY, IMMEDIATELY PRIOR TO WRITING THE PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION, THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION;
- (k) ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE BEFORE WRITING ~~AA~~ A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION; AND
- (l) EITHER:
 - (I) DISPENSE MEDICAL AID-IN-DYING MEDICATIONS DIRECTLY TO THE QUALIFIED INDIVIDUAL, INCLUDING ANCILLARY MEDICATIONS INTENDED TO MINIMIZE THE INDIVIDUAL'S DISCOMFORT, IF THE ATTENDING PHYSICIAN HAS A CURRENT DRUG ENFORCEMENT ADMINISTRATION CERTIFICATE AND COMPLIES WITH ANY APPLICABLE ADMINISTRATIVE RULE; OR
 - (II) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY, BY MAIL, OR THROUGH AUTHORIZED ELECTRONIC TRANSMISSION IN THE MANNER PERMITTED UNDER ~~ARTICLE~~ ARTICLE 42.5 OF ~~TITLE~~ TITLE 12, C.R.S. OF THE COLORADO REVISED STATUTES, TO A LICENSED PHARMACIST, WHO SHALL DISPENSE THE MEDICAL AID-IN-DYING MEDICATION TO THE QUALIFIED INDIVIDUAL,

THE ATTENDING PHYSICIAN, OR AN INDIVIDUAL EXPRESSLY DESIGNATED BY THE QUALIFIED INDIVIDUAL.

25-48-107. CONSULTING PHYSICIAN RESPONSIBILITIES.

BEFORE AN INDIVIDUAL WHO IS REQUESTING MEDICAL AID-IN-DYING MEDICATION MAY RECEIVE A PRESCRIPTION FOR THE MEDICAL AID-IN-DYING MEDICATION, A CONSULTING PHYSICIAN MUST:

- (1) EXAMINE THE INDIVIDUAL AND HIS OR HER RELEVANT MEDICAL RECORDS;
- (2) CONFIRM, IN WRITING, TO THE ATTENDING PHYSICIAN:
 - (a) THAT THE INDIVIDUAL HAS A TERMINAL ILLNESS;
 - (b) THE INDIVIDUAL HAS A 1/2 PROGNOSIS OF SIX MONTHS OR LESS;
 - (c) THAT THE INDIVIDUAL IS MAKING AN INFORMED DECISION ; AND
 - (d) THAT THE INDIVIDUAL IS MENTALLY CAPABLE, OR PROVIDE DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS REFERRED THE INDIVIDUAL FOR FURTHER EVALUATION IN ACCORDANCE WITH SECTION 25-48-108 ~~OF THIS PART~~.

25-48-108. CONFIRMATION THAT INDIVIDUAL IS MENTALLY CAPABLE - REFERRAL TO MENTAL HEALTH PROFESSIONAL

- (1) AN ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE FOR AN INDIVIDUAL WITH A TERMINAL ILLNESS UNTIL THE INDIVIDUAL IS DETERMINED TO BE MENTALLY CAPABLE AND MAKING AN INFORMED DECISION, AND THOSE DETERMINATIONS ARE CONFIRMED IN ACCORDANCE WITH THIS SECTION.
- (2) IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES THAT THE INDIVIDUAL MAY BE SUFFERING FROM A MENTAL DISORDER PSYCHOLOGICAL OR PSYCHIATRIC CONDITION CAUSING IMPAIRED JUDGMENT THAT RENDERS THE INDIVIDUAL NOT MENTALLY CAPABLE OF MAKING AN INFORMED DECISION, THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL HEALTH PROFESSIONAL FOR A DETERMINATION OF WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING AN INFORMED DECISION.
- (3) A LICENSED MENTAL HEALTH PROFESSIONAL WHO EVALUATES AN INDIVIDUAL UNDER THIS SECTION SHALL COMMUNICATE, IN WRITING, TO THE ATTENDING OR CONSULTING PHYSICIAN WHO REQUESTED THE EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE INDIVIDUAL IS MENTALLY CAPABLE AND MAKING INFORMED DECISIONS. IF THE LICENSED MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE INDIVIDUAL IS NOT MENTALLY CAPABLE OF MAKING INFORMED DECISIONS, THE PERSON SHALL NOT BE DEEMED A QUALIFIED INDIVIDUAL UNDER THIS ARTICLE AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICAL AID-IN-DYING MEDICATION TO THE INDIVIDUAL.

25-48-109. DEATH CERTIFICATE.

- (1) UNLESS OTHERWISE PROHIBITED BY LAW, THE ATTENDING PHYSICIAN OR THE HOSPICE MEDICAL DIRECTOR SHALL SIGN THE DEATH CERTIFICATE OF A QUALIFIED INDIVIDUAL WHO OBTAINED AND SELF-ADMINISTERED AID-IN-DYING MEDICATION.

(2) WHEN A DEATH HAS OCCURRED IN ACCORDANCE WITH THIS ARTICLE, THE CAUSE OF DEATH SHALL BE LISTED AS THE UNDERLYING TERMINAL ILLNESS AND THE DEATH DOES NOT CONSTITUTE GROUNDS FOR POST-MORTEM INQUIRY UNDER SECTION 30-10-606 (1), C.R.S. OF THE COLORADO REVISED STATUTES.

25-48-110. INFORMED DECISION REQUIRED.

(1) AN INDIVIDUAL WITH A TERMINAL ILLNESS IS NOT A QUALIFIED INDIVIDUAL AND MAY NOT RECEIVE A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNLESS HE OR SHE HAS MADE AN INFORMED DECISION.

(2) IMMEDIATELY BEFORE WRITING A PRESCRIPTION FOR MEDICAL AID-IN-DYING MEDICATION UNDER THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL VERIFY THAT THE INDIVIDUAL WITH A TERMINAL ILLNESS IS MAKING AN INFORMED DECISION.

25-48-111. MEDICAL RECORD DOCUMENTATION REQUIREMENTS - REPORTING REQUIREMENTS - DEPARTMENT COMPLIANCE REVIEWS - RULES.

(1) THE ATTENDING PHYSICIAN SHALL DOCUMENT IN THE INDIVIDUAL'S MEDICAL RECORD, THE FOLLOWING INFORMATION:

(a) DATES OF ALL ORAL REQUESTS;

(b) A VALID WRITTEN REQUEST;

(c) THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION OF MENTAL CAPACITY AND THAT THE INDIVIDUAL IS MAKING A VOLUNTARY REQUEST AND AN INFORMED DECISION;

(d) THE CONSULTING PHYSICIAN'S CONFIRMATION OF DIAGNOSIS AND PROGNOSIS, MENTAL CAPACITY AND THAT THE ~~INDIVIDUAL~~ INDIVIDUAL IS MAKING AN INFORMED DECISION;

(e) IF APPLICABLE, WRITTEN CONFIRMATION OF MENTAL CAPACITY FROM A LICENSED MENTAL HEALTH PROFESSIONAL PROVIDER;

(f) ~~A~~ NOTATION OF NOTIFICATION OF THE RIGHT TO RESCIND A REQUEST MADE PURSUANT TO THIS ARTICLE; AND

(g) ~~A~~ NOTATION BY THE ATTENDING PHYSICIAN THAT ALL REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN SATISFIED; INDICATING STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICAL AID-IN-DYING MEDICATIONS PRESCRIBED AND WHEN.

(2)(a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ANNUALLY REVIEW A SAMPLE OF RECORDS MAINTAINED PURSUANT TO THIS ARTICLE TO ENSURE COMPLIANCE. THE DEPARTMENT SHALL ADOPT RULES TO FACILITATE THE COLLECTION OF INFORMATION DEFINED IN SUB-SECTION (1) OF 25-48-111(1) OF THIS PART THIS SECTION. EXCEPT AS OTHERWISE REQUIRED BY LAW, THE INFORMATION COLLECTED BY THE DEPARTMENT IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION. HOWEVER, THE DEPARTMENT SHALL GENERATE AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER THIS SUBSECTION (2).

(b) THE DEPARTMENT SHALL REQUIRE ANY HEALTHCARE PROVIDER, UPON DISPENSING A MEDICAL AID-IN-DYING MEDICATION PURSUANT TO THIS ARTICLE, TO FILE A COPY OF A DISPENSING RECORD