

<p>Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203</p>	
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2015) Appeal from the Ballot Title Board</p>	<p>▲ COURT USE ONLY ▲</p>
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #124 (“Medical Aid in Dying”)</p> <p>Petitioner: Michelle Stanford,</p> <p>v.</p> <p>Respondents: Harlan Hibbard and Julie Selsberg,</p> <p>and</p> <p>Title Board: Suzanne Staiert, Frederick R. Yarger, and Jason Gelender.</p>	<p>Supreme Court Case No.: 16SA137</p>
<p><i>Attorneys for Petitioner Michelle Stanford</i></p> <p>Thomas M. Rogers III, #28809 Hermine Kallman, #45115 LEWIS ROCA ROTHGERBER CHRISTIE LLP 1200 Seventeenth Street, Suite 3000 Denver, CO 80202 Phone: 303.623.9000 Fax: 303.623.9222 Email: trogers@lrrc.com hkallman@lrrc.com</p>	
<p>PETITIONER’S OPENING BRIEF</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It contains 2,242 words.

The brief complies with C.A.R. 28(a)(7)(A).

For the party raising the issue:

It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record, not to an entire document, where the issue was raised and ruled on.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

s/ Thomas M. Rogers III

Thomas M. Rogers III

Attorney for Petitioner Michelle Stanford

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Petitioner Michelle Stanford, through the undersigned counsel, hereby submits her Opening Brief:

STATEMENT OF ISSUES PRESENTED FOR REVIEW

Whether the title set by the Title Board for Proposed Ballot Initiative 2015-16 #124 (“Initiative 124” or the “Initiative”) concerning allowing licensed physicians to prescribe medication that may be used by a terminally-ill patient to end his or her life by suicide fails to fairly reflect the true intent and meaning of the Initiative.

STATEMENT OF THE CASE

Under Initiative 124, a patient that has been diagnosed with an illness, with a prognosis of six months or less to live, may ask a licensed physician to prescribe medication that the patient may use to end his or her life by suicide.¹ The Initiative also makes a number of additional changes to Colorado law: it mandates that the patient’s death shall not be recorded as suicide on the patient’s death certificate; it mandates that insurance contracts shall not be affected by the patient’s decision to commit suicide; it contains provisions to shield a physician prescribing medication

¹ On March 25, 2016, a substantially similar initiative, Initiative 145, was submitted to the Office of Legislative Council for review and comment. The Title Board set title for Initiative 145 on April 20, 2016. Petitioner moved for rehearing and has appealed the actions of the Title Board in setting title for Initiative 145 in Case No. 16SA151.

to be used by the patient to end his or her life from criminal and civil liability and administrative discipline, among others.

Importantly, the measure specifies that the medication prescribed by the physician must be self-administered; in other words, it may not be administered by anyone but the patient to cause the patient's death. Accordingly, there can be no dispute that the true intent and meaning of the Initiative is to provide a means to a terminally-ill patient to end his or her life through suicide. Yet, nowhere in the title are the words "assist" and "suicide" mentioned.

Further, the measure goes so far as mandating that the cause of death of the patient in the official records, including the death certificate, be listed as the underlying illness and not suicide. Mandating a misrepresentation in official legal documents is a central feature of the Initiative which the voters are entitled to know. However, the Title Board failed to include that material provision in the title.

STATEMENT OF FACTS

On March 11, 2016, Proponents Harlan Hibbard and Julie Selsberg filed proposed Initiative 2015-2016 #124 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 Initiative to the Secretary of

State for title setting.² On April 6, 2016, the Title Board set the Initiative's title. On April 13, 2016, Petitioner timely filed a Motion for Rehearing on the basis that the title failed to reflect the central features of the Initiative. The Title Board held a rehearing on April 20, 2016 and denied the Petitioner's motion except to the extent that the Board amended the title.³

SUMMARY OF THE ARGUMENT

Titles should enable the voters to determine intelligently whether to support or oppose a proposed ballot measure. The title for Initiative 124 fails to reflect its intent—to legalize assisted suicide in Colorado—to allow the voters to make an informed choice. It employs a euphemism to describe the purpose of the Initiative,

² See Proposed Initiative 2015-16 #124, attached as Exhibit A.

³ See Ballot Title and Submission Clause for #124, attached as Exhibit B:

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?

masking its true meaning: the Initiative provides procedures for permitting a physician to prescribe medication to a terminally-ill patient to end his or her life by suicide. The title must be revised to reflect that the measure changes current Colorado law that prohibits aiding or assisting suicide.

Further, the measure mandates that the cause of death in the official public records be noted as the terminal illness and not suicide. Requiring misrepresentation in official records is a radical change in the law that is a central feature of the Initiative which should be reflected in the title.

STANDARD OF REVIEW AND PRESERVATION

In reviewing the actions of the Title Board, the Court must ensure that the title fairly reflects the proposed initiative “so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the board.” *Matter of Title, Ballot Title & Submission Clause, & Summary for 1997-98 No. 62*, 961 P.2d 1077, 1082 (Colo. 1998). While the Title Board is vested with considerable discretion in setting the title, the Court will reverse the Board’s decision if a title is insufficient, unfair, or misleading. *See Matter of Title, Ballot Title & Submission Clause for 2015-2016 #73*, 2016 CO 24, ¶ 8. The Petitioner’s challenge was raised below in her Motion for Rehearing.⁴

⁴ See Exhibit C.

ARGUMENT

I. The title of the Initiative fails to properly identify the true intent and meaning of the Initiative: to establish procedures for terminally-ill patients to be able to end their lives by suicide.

Under Colorado law, it is illegal to aid another in committing suicide. See C.R.S. § 18-3-104(1)(b) (providing that a “person commits the crime of manslaughter if: . . . (b) [s]uch person intentionally causes or aids another person **to commit suicide.**”) (emphasis added). Initiative 124 proposes a change to that law by creating procedures through which a physician may legally prescribe medication to a terminally-ill patient who may use it to commit suicide. *See* Ex. A, proposed § 25-48-103. The measure emphasizes that the medication to cause one’s own death must be self-administered by the patient, which, by definition, means suicide. *See People v. Gordon*, 32 P.3d 575, 578-79 (Colo. App. 2001) (“Suicide is, by definition, the killing of oneself,” and there is “a distinction between killing oneself and being killed by another.”) (quoting *People v. Kevorkian*, 527 N.W.2d 714, n. 71 (Mich. 1994)); *see also* Black’s Law Dictionary (9th ed.) (suicide is “the act of taking one’s own life”). Colorado statute uses the term “suicide” in the very section for which the Initiative seeks to create an exception for persons aiding a terminally-ill patient to commit suicide. *Compare* C.R.S § 18-3-104(1)(b) *with*

proposed § 25-48-116(1) (“A person is not subject to civil or criminal liability or professional disciplinary action for acting in good faith under this article . . .”).

Nevertheless, the Title Board refused to use the word “suicide” or “assisted suicide”⁵ in the title to accurately inform the voters of the true intent and meaning of the Initiative. Instead, the title employs a vague statement of the subject of the Initiative 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.

A petition signer or a voter would have to carefully parse the language above to discern what the measure is proposing. It is not immediately clear to the reader that the measure is proposing to legalize assisted suicide. By failing to refer to the word “suicide” or “assisted suicide”—common terms with which the voters are presumably familiar—the title is confusing and misleading as it does not inform the voter that Initiative 124 is a radical change to current law prohibiting such activity.

⁵ “Assisted suicide” is defined as “[t]he intentional act of providing a person with the medical means or the medical knowledge to commit suicide.” Black’s Law Dictionary (9th ed.).

The fact that the words employed by the Title Board come from the Initiative itself is of no import. This Court has held that even where the measure is set forth in the title “virtually word for word,” the title fails if it does not provide sufficient information to allow voters to determine intelligently whether to support or oppose the proposal. *See Matter of Title, Ballot Title, Submission Clause, & Summary by Title Bd. Pertaining to a Proposed Initiative on Obscenity*, 877 P.2d 848, 850 (Colo. 1994); *see also In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 104*, 987 P.2d 249, 259-60 (Colo. 1999) (“mere repetition of language from the initiative to the titles and summary does not necessarily ensure that the voters will be apprised of the true intent and purpose of the initiative”).

Initiative 124 is a long and complicated measure (over eleven pages) that, without dispute, seeks to change current law prohibiting persons from aiding or assisting another to commit suicide.⁶ By employing words other than those commonly used—assisted suicide—the title creates confusion and leads the voter to believe that the measure does something other than legalize assisted suicide in certain circumstances. The title must be revised to include this commonly-known

⁶ *See Gordon*, 32 P.3d at 579 (“It is well accepted that ‘aiding,’ in the context of determining whether one is criminally liable for their involvement in the suicide of another, is intended to mean providing the means to commit suicide, not actively performing the act which results in death.”).

and used term to adequately apprise the voter of the measure’s true intent and meaning.⁷

II. The title fails to reflect a central feature of the Initiative—that the measure dictates that the cause of death on the person’s death certificate shall be listed as the terminal illness and not suicide.

A death certificate is a legal document. *See Bernstein v. Rosenthal*, 671 P.2d 979, 981 (Colo. App. 1983) (“the death certificates are records of vital statistics”); *see also* C.R.S. § 25-2-110(1)(a) (“A certificate of death for each death, . . . that occurs in Colorado must be filed with the state registrar or as otherwise directed by the state registrar, within five days after the death occurs and prior to final disposition.”). It must list the cause of death. *See* C.R.S. §§ 25-2-110(3); -110(4); -110(5).

The importance of the accuracy of the death certificate as a reliable official record is supported by this Court’s adoption of C.R.E. 803(9), which provides that “[r]ecords or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law” are admissible in court and are exceptions to the rule against

⁷ The Objector proposes the following revision to the title: “Shall there be a change to the Colorado Revised Statutes to permit a licensed physician to prescribe medication to any mentally capable adult Colorado resident who has a medical prognosis of death by terminal illness within six months to assist the patient to commit suicide”

hearsay. That is, such documents may be introduced as evidence for the truth of the matter asserted. *See* C.R.E. 801; *Bernstein*, 671 P.2d at 981 (the trial court properly relied on the death certificates in determining the cause of death); *see also* C.R.S. § 25-2-117(1) (“Any copy of the record of a birth or death, when properly certified by the state registrar or as otherwise directed by the state registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated.”).

Initiative 124 mandates that the cause of death of the patient be misrepresented on the death certificate as the terminal illness. *See* Ex. A, proposed § 25-48-109. The voters are entitled to be apprised of the fact that by voting “yes” on the measure, they are agreeing that public records will be required to contain false information. Thus, proposed § 25-48-109 is a central feature of the Initiative, and the Title Board erred in failing to include it in the title. *See In re Proposed Initiated Constitutional Amendment of Educ., 1984*, 682 P.2d 480, 482 (Colo. 1984) (The title and the submission clause “presented to the public must fairly and succinctly advise the voters what is being submitted, so that in the haste of an election the voter will not be misled into voting for or against a proposition . . .”).

CONCLUSION

Petitioner respectfully requests that this Court determine that the title and submission clause set for the 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 11th day of May, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

s/ Thomas M. Rogers III

Thomas M. Rogers III

Hermine Kallman

Attorneys for Petitioner Michelle Stanford

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2016, a true and correct copy of the foregoing was served on the following:

Mark G. Grueskin
1600 Stout Street, Suite 1000
Denver CO 80202
mark@rklawpc.com
Attorney for Respondents Harlan Hibbard and Julie Selsberg

LeeAnn Morrill
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
Leeann.morrill@state.co.us
Attorney for the Title Board

s/Jonelle Martinez

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FINAL

Colorado Secretary of State
DATE FILED: May 11, 2016 4:20 PM

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 COLORADO 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..

Ballot Title Setting Board

DATE FILED: May 11, 2016 4:20 PM

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 the titles; denied in all other respects.

Hearing adjourned 10:08 a.m.

RECEIVED

APR 13 2016

S. WARD

3:03 P.M.

Colorado Secretary of State DATE FILED: May 11, 2016 4:20 PM

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 rehearing 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 Seventeenth St., Suite 3000

Denver, CO 80202

Phone: (303) 623-9000

Fax: (303) 623-9222

Email: trogers@lrc.com

hkallman@lrc.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