

<p>SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203</p>	
<p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) (2015) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #100</p> <p>ANITA CAMERON and JULIE FARRAR Petitioners,</p> <p>v.</p> <p>LANCE WRIGHT and MERCEDES APONTE Respondents,</p> <p>And</p> <p>SUZANNE STAIERT, FREDERICK YARGER, and JASON GELENDER Title Board</p>	<p>↑ COURT USE ONLY ↑</p>
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<p>RESPONDENTS' 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).

Choose one:

- It contains _____ words.
- It does not exceed 30 pages.

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

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.

For the party responding to the issue:

It contains, under a separate heading, a statement of whether such party agrees with the opponent's statements concerning the standard of review and preservation for appeal, and if not, why not.

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/ Samantha S. Peaslee
Samantha S. Peaslee
Attorney for Respondents
(Original signature on file)

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Respondents Lance Wright and Mercedes Aponte (the “Proponents”), by and through their undersigned counsel, hereby submit their Opening Brief.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the Initiative comprises a single subject of establishing a right to medical aid in dying.
2. Whether the title of the Initiative correctly and fairly expresses the true meaning and intent of the Initiative.

STATEMENT OF THE CASE

The Proponents proposed Initiative #100 (the “Initiative”), unofficially captioned “Medical Aid in Dying.” In compliance with the requirements set forth in Art. V, Section 1 of the Colorado Constitution and Title 1, Art. 40 of the Colorado Revised Statutes, the Proponents submitted a draft of the proposed Initiative to the Colorado Legislative Council and the Office of Legislative Legal Services for review and comment. Based on comments received, the Proponents revised the text of the proposed Initiative. The Proponents submitted a revised version of the proposed Initiative to the Colorado Secretary of State for submission to the Title Board.

At a Title Board hearing on April 6, 2016, the Title Board found that it had jurisdiction to set a title for the Initiative and that the Initiative did not violate the

single subject requirement. The Title Board set a title for the Initiative. On April 13, 2016, Petitioners filed a Motion for Rehearing on the Initiative. On April 20, 2016, the Title Board granted Petitioners' motion only to the extent that the Title Board made changes to the title. The Title Board confirmed the title, ballot title, and submission clause. The Petitioners filed their Petition for Review with this Court on April 27, 2016.

STATEMENT OF THE FACTS

The Initiative is a proposed constitutional amendment that establishes the right to receive Medical Aid in Dying (“MAID”) for mentally-competent adults who are legal residents of the United States (“citizen-sovereigns”) in the State of Colorado. The amendment allows citizen-sovereigns to obtain the assistance of a medical professional to receive a peaceful death through the administration of a medical protocol. The amendment grants immunity to those medical professionals and others who support or assist citizen-sovereigns through MAID. The request for and provision of MAID is entirely voluntary on the part of both the citizen-sovereign and the medical professional; agreement to participate in MAID may be withdrawn at any time. The amendment includes definitions of potentially ambiguous terms within its subsections.

The Title Board determined that the Initiative constituted a single subject and set the title accordingly.

SUMMARY OF THE ARGUMENT

The Proposed Initiative comprises a single subject. The subject of the initiative is the establishment of a right of MAID. Any other portions of the initiative, such as protecting those who assist and support a citizen-sovereign through MAID and the defining of terms within the initiative, are necessary to effectuate the provision and therefore are rightfully included. According to the testimony of the Proponents at the Title Board hearings, the proposed initiative does not create new classes of persons or new inalienable rights. As such, the Title Board was correct in determining that the Initiative comprises a single subject.

The Title given by the Title Board correctly and fairly expresses the true meaning and intent of the Initiative. Based on the Title of the Proposed Initiative, voters can answer “yes” or “no” and fully understand that they are establishing a right to MAID in Colorado and protecting those who support or assist in providing MAID. Therefore, the Title determination by the Title Board should be upheld.

ARGUMENT

I. The Initiative Contains a Single Subject of Establishing Medical Aid in Dying as a Right in Colorado.

The Title Board determined that the single subject of the Proposed Initiative is the right to obtain assistance from medical professionals to assist with dying. The Title Board further determined that everything within the Initiative relates to this single subject.

Petitioners have challenged three aspects of the Title Board's determination that the Proposed Initiative contains a single subject. Petitioners argue: (1) that the Initiative creates a new class of protected persons under the Constitution; (2) that the Initiative creates new inalienable rights for those persons; and (3) that the Initiative creates new definitions of mental competencies. Petition for Review 4-5. Petitioners' allegations are untrue and therefore cannot disturb the single subject of the Initiative. Further, all of the definitions contained within the Initiative are part of the single subject of the Initiative as defined by the Title Board.

A. Standard of Review.

In reviewing Title Board decisions, the Court "employ[s] all legitimate presumptions in favor of the propriety of the Board's actions." *Hayes v. Spalding (In re Title, Ballot Title, and Submission Clause for 2015-2016 #73)*, 2016 CO 24, ¶ 9

(Colo. 2016); *Cordero v. Leahy (In re Title, Ballot Title, and Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 158 (Colo. 2014). The Court does not address the merits of the proposed initiatives, but examines their wording to determine whether the initiatives and their titles comport with the single subject and clear title requirements of the Colorado Constitution. *Hayes*, 2016 CO 24 at ¶ 10. In conducting this limited inquiry, the Court employs the general rules of statutory construction and gives words and phrases their plain meaning. *Id.*

Article V, section 1(5.5) of the Colorado Constitution provides that:

No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any measure which shall not be expressed in the title, such measure shall be void only as to so much thereof as shall not be so expressed. If a measure contains more than one subject, such a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the measure shall not be submitted to the people for adoption or rejection at the polls.

The single subject requirement serves two functions. *Hayes*, 2016 CO 24 at ¶ 13. First, it prevents incongruous subjects in the same initiative. *Id.*; Colo. Rev. Stat. § 1-40-106.5(1)(e)(I) (2015). Second, it prevents surreptitious measures, avoiding surprise and fraud from being practiced on the voters. *Hayes*, 2016 CO 24 at ¶ 16; Colo. Rev. Stat. § 1-40-106.5(1)(e)(II) (2015). In order to serve these functions, an initiative must have a connected subject and not relate to two or more separate and

distinct purposes. *Cordero*, 328 P.3d at 159. However, provisions that are necessary to effectuate the purpose of an initiative may be properly included in the initiative without violating the single subject requirement. *Hayes*, 2016 CO 24 at ¶ 17.

The Court liberally construes the single subject requirement due to the Title Board's considerable discretion in making its determinations. *Cordero*, 328 P.3d at 159-60. This liberal construal also "avoid[s] unduly restricting the initiative process." *Id.* The Court will only overturn the Title Board's finding regarding a single subject in a "clear case." *Hayes*, 2016 CO 24 at ¶ 18.

B. The Initiative does not create a new class of protected person under the Constitution.

The Initiative defines "citizen-sovereigns" as mentally competent adults who are lawful residents of the United States of America. Initiative § 6(c). The Initiative establishes the right of MAID only for citizen-sovereigns, as opposed to those without mental competency or underage. Initiative § 4. Petitioners object to the use of "citizen-sovereigns" in the Initiative, alleging that this is a new class of protected persons created by the Initiative. Petition for Review 4. However, this is not a new class of protected persons and therefore does not violate the single subject requirement.

In determining the true intent and meaning of a proposed initiative, the Court may consider testimony from the proponents. *In the Matter of the Title, Ballot Title and Submission Clause for Proposed Initiatives 2001-2002 #21 & #22 (“English Language Education”)*, 44 P.3d 213, 216 (Colo. 2002).

In the April 6, 2016 hearing regarding the Initiative, the Petitioners raised concerns about the Initiative creating a new class of protected persons, namely “citizen-sovereigns.” Proponents responded that the idea of a citizen-sovereign is not a new one and that the use of the term “citizen-sovereign” in the Initiative is a reflection of a historical finding, not a creation of a legal status. If this Court considers this testimony as reflective of the true meaning and intent of the Initiative, it will find that a citizen-sovereign is not a new class or protected persons. To the extent the definition itself is new, it effectuates the single subject of the Initiative, namely who is entitled to MAID under the Initiative.

Based upon the testimony of the Proponents as the true meaning and intent of the Initiative and the plain language of the initiative, the Proponents request that this Court find that the use of the term “citizen-sovereign” does not create a new class of protected persons under the Constitution. The Proponents request that, based on this finding, this Court upholds the finding of the Title Board that the Initiative comprises a single subject.

C. The Initiative does not create new inalienable rights of persons.

The Initiative states that:

[t]he People of Colorado hereby declare that citizen-sovereigns have the inalienable right of liberty at life's end to set the time and tone of their own death by obtaining a medical professional's assistance in achieving a peaceful death through the careful administration of a medical protocol.

Initiative § 4(a). Petitioners allege that the “inalienable right of liberty at life's end” is a new right of persons. Petition for Review 5. However, the right of liberty at life's end is not a new inalienable right.

In *English Language Education*, objectors to the initiatives at issue argued that the Title Board's decision should be overturned because the Initiative contained a new constitutional duty to provide all Colorado children with an English-language public school education. 44 P.3d at 216. The proponents of the initiatives testified at a public hearing that they did not intend to create a new constitutional duty above what existed at the present time, but merely recognized a right for which the Constitution already provided. *Id.* at 217. The Court decided to accept the testimony of the proponents as reflective of the intent of the initiative and, based on that testimony, determined that the initiatives simply built upon the general duty to educate rather than created a new constitutional requirement. *Id.*

Similar to the argument regarding citizen-sovereigns, Proponents argued at the April 6, 2016 Title Board Hearing that the right to set the time and tone of one's own death is a right which already exists. Therefore, the right to choose the time and tone of one's own death (and the right not to do so) builds upon a pre-existing right that exists in the Colorado Constitution. This is similar to the facts in the *English Language Education* decision above. Therefore, the Proponents request that this Court treat this case like *English Language Education* and determine that because this is not a new right, the inclusion of the right in the Initiative does not violate the single subject rule.

Even if this Court determines that this Initiative does change a right that already exists in the Colorado Constitution, if it is not a "broad change" but only affects that right to the extent that it "directly relate[s] to the subject matter of the Proposed Initiative[]," that change will not affect the single subject requirement. *Cordero*, 328 P.3d at 160. In *Cordero*, the Court deemed that a narrow change to a pre-existing right that directly related to the single subject of the initiative at issue did not constitute an additional subject. *Id.*

If the Court determines that this Initiative is not already existing but is changing a pre-existing Constitutional right, the Initiative only narrowly changes this right. The Initiative only provides for the right of MAID for citizen-sovereigns

when they voluntarily and unambiguously choose MAID. This is narrowly tailored to the single subject of establishing MAID as a right and protecting those who support citizen-sovereigns who voluntarily choose MAID. Therefore, this narrow change which is directly related to the single subject of the Initiative would not violate the single subject requirement.

In conclusion, the Proponents requests that this Court consider the testimony of the Proponents as the true meaning and intent of the Initiative and find that the Initiative does not create a new right under the Colorado Constitution. If the Court disagrees with Proponents on that point, the Proponents request that this change of an existing right is so directly related to the single subject of the Initiative and narrow that the Court can still uphold the Title Board’s finding of the Initiative constituting a single subject.

D. The definitions contained within the Initiative are within the single subject of the Initiative.

Subsection 6 of the Initiative is titled “Definitions.”¹ The subsection defines nine words or phrases used throughout the Initiative to clarify their meaning. Petitioners object to definition § 6(h): “mental competency.” Petition for Review 5.

¹ Due to a typographical error, both the subsection entitled “Definitions” and the subsection entitled “Legislation” are labelled as subsection 6 in the Initiative. In this Brief, subsection 6 will refer solely to the “Definitions” subsection.

“Mental competency” as used in the Initiative “applies to any adult in Colorado who possess the decisional ability to be responsible for his or her own decisions and actions regarding medical care and treatment.” Initiative § 6(h).

Generally, provisions necessary to effectuate the purpose of an initiative are deemed included in the single subject. *Hayes*, 2016 CO 24 at ¶ 17. For example, enforcement mechanisms for the key provision of an initiative that only establish penalties for a violation related to the subject have been considered part of the single subject of the initiative. *Herpin v. Head (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 485, 495 (Colo. 2000).

Definitions are a necessary portion of any initiative. They clarify the meaning and intent of specific words and phrases within the initiative. In this Initiative, the definition of “mental competency” is not meant to apply broadly across Colorado law, but only to the phrase as used in the Initiative. Therefore, it is part of the single subject of the Initiative.

As the definition of “mental competency” as contained in the Initiative is part of the single purpose of establishing a right for MAID, the Proponents respectfully request that the Court affirm the Title Board’s decision.

II. The Title Set for the Initiative Accurately Reflects the Single Subject of the Initiative.

A. Standard of Review

In reviewing Title Board decisions regarding title, like the single subject, the Court “employ[s] all legitimate presumptions in favor of the propriety of the Board’s actions.” *Hayes*, 2016 CO 24 at ¶ 9. The Court does not address the merits of the proposed initiatives, but examines their wording to determine whether the initiatives and their titles comport with the clear title requirements of the Colorado Constitution. *Id.* at ¶ 10. In conducting this limited inquiry, the Court employs the general rules of statutory construction and gives words and phrases their plain meaning. *Id.*

The single subject of a ballot initiative should be clearly expressed in its title. Colo. Const. Art. V, sect. 1(5.5). The title must “correctly and fairly express the true intent and meaning of the initiative.” Colo. Rev. Stat. § 1-40-106(3)(b) (2015). The Title Board has considerable discretion in setting the title of an initiative. *Cordero*, 328 P.3d at 159. The Court will only reverse the Title Board’s decision in setting a title, ballot title, and submission clause when a title is insufficient, unfair, or misleading. *Hayes*, 2016 CO 24 at ¶ 8. The Court should resolve all legitimate presumptions in favor of the Title Board’s choice. *Aisenberg v. Campbell (In re Title)*, 8 P.3d 1194, 1197 (Colo. 2000).

The purpose of the title and submission clause is to allow voters who may not be familiar with the subject matter of a particular proposal to determine intelligently whether to support or oppose the initiative. *Hayes*, 2016 CO 24 at ¶ 22. The title should allow voters to answer “yes” or “no” to the proposal and clearly understand the effect of that vote. *Id.* The Title Board need not, however, refer to every effect that the measures may have on the current law. *Cordero*, 328 P.3d at 164.

B. The Title set by the Title Board correctly and fairly expresses the true intent and meaning of the Initiative.

Petitioners object to the title set by the Title Board because it does not reflect that the Initiative creates a new class of “citizen-sovereigns” or creates new inalienable rights. Petition for Review 5. As the Initiative does neither of these things, neither of them should be reflected in the title. Moreover, by including them in the title, this would *create* a misleading title, by implying that the Initiative creates new classes of persons or new rights.

Including every definition of each phrase in an Initiative in the Title would undermine the purpose of creating titles. It would not allow voters to determine intelligently whether to support or oppose the initiative, but would bog them down in the details contained in the Initiative. As it is written, the Title for this Initiative allows voters to understand that voting “yes” on this Initiative would allow MAID

in Colorado in voluntary situations for mentally competent adults and that it would protect individuals supporting or assisting those who choose to take advantage of MAID. That is a clear and fair understanding of the true intent and meaning of the initiative; therefore, the Title does what it is required to do.

The current title as passed by the Title Board is not misleading, as it states what the Initiative does and the clear effect of a vote for or against the Initiative. As a result, the Proponents request that this Court uphold the Title Board's Title.

CONCLUSION

For the reasons stated herein, the Proponents respectfully request that the Court uphold the title, ballot title, and submission clause for Initiative #100.

Respectfully submitted this 12th day of May, 2016.

/s/ Samantha S. Peaslee
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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2016, I filed a true and correct copy of the foregoing RESPONDENTS' OPENING BRIEF using the ICCES electronic filing system and served electronic copies to the following:

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2015-2016 #100 - Final

PROPOSED INITIATIVE MEASURE 2015 – 2016 #100, MEDICAL AID IN DYING.

A PROPOSAL TO AMEND THE STATE CONSTITUTION.

DATE FILED: May 12, 2016 1:00 PM

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

SECTION 1. In the Constitution of the State of Colorado, add Section 28A to Article II as follows:

SECTION 28A. MEDICAL AID IN DYING. (1) FOUNDING CONCEPTS OF GOVERNMENT. (a) THE PEOPLE OF COLORADO

AFFIRM THAT THE DECLARATION OF INDEPENDENCE AND THE CONSTITUTION OF THE STATE OF COLORADO PROCLAIM THAT CERTAIN INALIENABLE RIGHTS SUCH AS LIFE, LIBERTY AND THE PURSUIT OF HAPPINESS ARE SO FUNDAMENTAL AS TO BE SELF-EVIDENT AND TO BELONG TO THE INDIVIDUAL BY NATURAL ENDOWMENT.

(2) CHARACTERISTICS OF MODERN MEDICINE. (a) THE PEOPLE OF COLORADO HEREBY FIND THAT:

(I) RECENT ADVANCES IN MEDICAL SCIENCE ARE PRODUCING STARK CONTRASTS IN LIFE EXPERIENCE BETWEEN THE BEST AND WORST RESPONDING CONDITIONS, RANGING FROM OUTRIGHT CURES FOR SOME CONDITIONS TO SEEMINGLY POINTLESS ELONGATION OF THE DYING PROCESS IN OTHERS;

(II) AS IMPROVED AS THE BEST RESULTS ARE, MORTALITY HAS NOT BEEN CURED AND DEATH IS STILL AN INEVITABILITY THAT MUST BE FACED ON A PERSONAL LEVEL.

(3) PHILOSOPHICAL AND LEGAL CONFLICT. (a) THE PEOPLE OF COLORADO ALSO FIND THAT MANY COLORADANS ARE SURPRISED TO LEARN:

(I) THAT COLORADO LAW PREVENTS A CITIZEN-SOVEREIGN ACCESS TO PRESCRIPTION DRUGS THAT WOULD GIVE HIM OR HER A PEACEFUL DEATH;

(II) THAT LAWS CRIMINALIZING AS ASSISTED SUICIDE THE ACTIONS OF THOSE HELPING A CITIZEN-SOVEREIGN EXERCISE HIS OR HER NATURAL RIGHT TO SELF-DETERMINATION EXIST BECAUSE SOME ACTIVISTS AND SPECIAL INTEREST GROUPS OBJECT.

(b) MANY COLORADANS BELIEVE THAT LAWS THAT EFFECTIVELY LIMIT THEIR RESPONSE TO IMPENDING DEATH TO ONLY FIGHTING ON UNTIL ALL POSSIBLE TREATMENTS HAVE FAILED OR EASING INTO DEATH BY WITHHOLDING MEDICAL TREATMENT OR REFUSING TO EAT OR DRINK ARE UNACCEPTABLE GOVERNMENT USURPATIONS OF THE RIGHT TO SELF-DETERMINATION.

(4) RIGHTS OF CITIZEN-SOVEREIGNS. (a) THE PEOPLE OF COLORADO HEREBY DECLARE THAT CITIZEN-SOVEREIGNS have THE INALIENABLE RIGHT OF THE LIBERTY AT LIFE'S END TO SET THE TIME AND TONE OF THEIR OWN DEATH BY OBTAINING A MEDICAL PROFESSIONAL'S ASSISTANCE IN ACHIEVING A PEACEFUL DEATH THROUGH THE CAREFUL ADMINISTRATION OF A MEDICAL PROTOCOL.

(b) THE PEOPLE OF COLORADO HEREBY ADDITIONALLY DECLARE THAT ANY PERSON, GROUP, OR MEDICAL PROFESSIONAL ASSISTING A CITIZEN-SOVEREIGN TO SECURE MAID SHALL HAVE IMMUNITY FROM CRIMINAL PROSECUTION, CIVIL LIABILITY, AND PROFESSIONAL DISCIPLINE UPON PRESENTATION OF ACCEPTABLE DOCUMENTATION SUPPORTING THE CLAIM THAT THE REQUEST FOR, AND THE RENDERING AND UTILIZATION OF, MAID IS VOLUNTARY ON THE PART OF ALL INVOLVED IN ADMINISTERING, OR SUPPORTING THE ADMINISTERING OF, MAID.

(5). CONDITIONAL, TIME DEFERRED, MAID. (a) THE CITIZEN-SOVEREIGN'S RIGHT TO OBTAIN MAID IS NOT LIMITED TO THE MAINTENANCE OF MENTAL COMPETENCY ONLY, BUT CAN BE DURABLE INTO INCOMPETENCY IF DESIRED BY THE CITIZEN-SOVEREIGN AND SUPPORTED BY WRITTEN DOCUMENTATION OF THE CONDITIONS AND TERMS OF THE CONDITIONAL MAID AGREEMENT.

(b) A CITIZEN-SOVEREIGN CAN, AT ANY POINT IN TIME, ENTER INTO A CONDITIONAL MAID AGREEMENT TO RECEIVE MAID AT SOME FUTURE DATE WHEN THE PREDETERMINED CONDITIONS ARE MET, EVEN THOUGH THE CITIZEN-SOVEREIGN COULD, AT THAT POINT IN THE FUTURE, NO LONGER BE MENTALLY COMPETENT.

(c) PARTICIPATION IN MAID AND CONDITIONAL MAID IS ALWAYS VOLUNTARY. AGREEMENT TO PARTICIPATE IN THE MAID PROTOCOL CAN BE WITHDRAWN AT ANY TIME BY ANY CITIZEN-SOVEREIGN INVOLVED.

(6). DEFINITIONS. AS USED IN THIS SECTION:

(a) "ACCEPTABLE DOCUMENTATION" MEANS ARTIFACTS, SUCH AS, BUT NOT LIMITED TO, WRITTEN DOCUMENTS OR VIDEO AND AUDIO RECORDINGS THAT ARE PRESENTED TO SUPPORT THE CLAIM THAT THE CITIZEN-SOVEREIGN VOLUNTARILY REQUESTED MAID OR CONDITIONAL MAID.

(b) "ADULT" MEANS A PERSON EIGHTEEN (18) YEARS OF AGE OR OLDER.

(c) "CITIZEN-SOVEREIGN" MEANS A MENTALLY COMPETENT, ADULT, LAWFUL RESIDENT OF THE UNITED STATES OF AMERICA.

(d) "CONDITIONAL MAID" MEANS MAID THAT IS ACTIVATED THROUGH AN AGREEMENT DESIGNED TO GO INTO EFFECT WHEN THE "CONDITIONS" SPECIFIED THEREIN ARE MET. THE DETAILS OF THE AGREEMENT WILL BE DEVELOPED BETWEEN THE CITIZEN-SOVEREIGN WHO IS ANTICIPATING LOSING MENTAL COMPETENCY IN THE FUTURE AND DESIRES TO RECEIVE MAID AFTER HE OR SHE REACHES THAT POINT OF MENTAL INCOMPETENCY DESCRIBED IN THE AGREEMENT AND THE MEDICAL PROFESSIONAL WHO IS VOLUNTEERING TO PROVIDE THE MAID DESIRED AT THAT FUTURE TIME. THE MEDICAL PROFESSIONAL CAN WITHDRAW FROM THE AGREEMENT AT ANY TIME, BUT THE AGREEMENT MUST DETAIL HOW THE PARTIES TO THE AGREEMENT PLAN TO ALLOW THE MEDICAL PROFESSIONAL TO BE ABLE TO WITHDRAW FROM THE AGREEMENT.

(e) "IMMUNITY" MEANS FREEDOM FROM PENALTIES, PAYMENTS, OR LEGAL REQUIREMENTS THAT COULD ARISE FROM ADMINISTERING MAID OR CONDITIONAL MAID. UNDER THE PROVISIONS OF THIS SECTION, MAID AND CONDITIONAL MAID ARE NOT SUICIDE OR ASSISTED SUICIDE.

(f) "MAID" IS "MEDICAL AID IN DYING" AND MEANS HELPING A CITIZEN-SOVEREIGN WHO HAS AN INCURABLE, LIFE-LIMITING MEDICAL CONDITION, SUCCEED IN THE VOLUNTARY PURSUIT OF ACHIEVING A PEACEFUL DEATH. THE TERM "MEDICAL AID IN DYING" REFERS TO THE APPLICATION OF, AND TO THE SUPPORT OF THE APPLICATION OF, A MEDICAL PROTOCOL THAT IS LETHAL. IT DOES NOT INCLUDE NON-MEDICAL ACTIONS SUCH AS HANGING OR ASPHYXIATION AND MUST BE SUPERVISED BY A MEDICAL PROFESSIONAL.

(g) "MEDICAL PROFESSIONAL" MEANS A PERSON WHO, PURSUANT TO A LICENSE, CERTIFICATION, REGISTRATION, OR OTHER AUTHORITY GRANTED IN STATE LAW, IS AUTHORIZED TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

(h) "MENTAL COMPETENCY" APPLIES TO ANY ADULT IN COLORADO WHO POSSESS THE DECISIONAL ABILITY TO BE RESPONSIBLE FOR HIS OR HER OWN DECISIONS AND ACTIONS REGARDING MEDICAL CARE AND TREATMENT.

(i) "VOLUNTARY" MEANS PROCEEDING, OR ACTING, OR DONE OF ONE'S OWN FREE WILL AND CONSENT, UNINTIMIDATED BY COERCION OR COMPULSION FROM OTHERS.

(6) LEGISLATION. THIS AMENDMENT IS COMPLETE AS WRITTEN, BUT LEGISLATION MAY BE ENACTED TO CLARIFY THE DEFINITION OF THE DOCUMENTATION REQUIRED BY THIS SECTION. HOWEVER, SAID CLARIFICATION OF DOCUMENTATION SHALL IN NO WAY LIMIT OR RESTRICT THE PROVISIONS OF THIS SECTION OR THE POWERS HEREIN GRANTED.

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DATE FILED: May 12, 2016 1:00 PM

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Results for Proposed Initiative #100

Ballot Title Setting Board 2015-2016

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

An amendment to the Colorado constitution establishing a right to assistance from a medical professional to achieve death through a medical protocol, and, in connection therewith, allowing a mentally competent adult to exercise the right or to enter into an agreement to exercise the right at a future time when the individual may no longer be mentally competent and the conditions specified in the agreement are met; and granting immunity from civil and criminal liability and professional discipline to any person who provides assistance to a person exercising the right.

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

Shall there be an amendment to the Colorado constitution establishing a right to assistance from a medical professional to achieve death through a medical protocol, and, in connection therewith, allowing a mentally competent adult to exercise the right or to enter into an agreement to exercise the right at a future time when the individual may no longer be mentally competent and the conditions specified in the agreement are met; and granting immunity from civil and criminal liability and professional discipline to any person who provides assistance to a person exercising the right?

Hearing April 6, 2016

Single subject approved; staff draft amended; titles set.
Hearing adjourned 12:10 PM.

Rehearing April 20, 2016

Motion for Rehearing denied except to the extent that the Board made changes to the titles.
Hearing adjourned 9:15 AM.

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