

<p>COLORADO SUPREME COURT 2 East 14th Ave. Denver, Colorado 80203</p>	<p>DATE FILED: May 19, 2016 2:54 PM</p>
<p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015- 2016 #145</p> <p>PETITIONERS: Robin Stephens; Renee Walbert; and Michelle Stanford,</p> <p>v.</p> <p>RESPONDENTS: Jaren Ducker and Julie Selsberg, and</p> <p>TITLE BOARD: Suzanne Staiert; David Blake; and Jason Gelender.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>CYNTHIA H. COFFMAN, Attorney General GRANT T. SULLIVAN, Assistant Solicitor General* 1300 Broadway, 6th Floor Denver, CO 80203 Phone: (720) 508-6349 Fax: (720) 508-6041 Email: grant.sullivan@coag.gov Registration Number: 40151 *Counsel of Record Attorneys for the Title Board</p>	<p>Case No.: 2016SA151</p>
<p>THE TITLE BOARD'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 the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 3,550 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).

Under a separate heading placed before the discussion of each issue, the brief contains statements of the applicable standard of review with citation to authority, statements whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1 and C.A.R. 32.

s/ Grant T. Sullivan

GRANT T. SULLIVAN, 40151*
Assistant Solicitor General

TABLE OF CONTENTS

	PAGE
STATEMENT OF THE ISSUES.....	1
STATEMENT OF THE CASE AND FACTS.....	1
SUMMARY OF THE ARGUMENT.....	4
ARGUMENT.....	5
I. Dr. Stanford’s petition for review is untimely.	5
A. Standard of Review.	5
B. The petition for review was filed beyond the jurisdictional deadline in section 1-40-107(2), C.R.S.....	6
II. The measure does not contain multiple subjects.....	8
A. Standard of Review and Preservation.	8
B. The Board correctly found that #145 satisfies the single subject rule.....	9
III. The Board’s title for #145 is fair, clear, accurate, and complete.	12
A. Standard of Review and Preservation.	13
B. Clear title standards governing titles set by the Board.....	14
C. The phrase “physician-assisted suicide” may constitute an impermissible catch phrase.	16
D. The provision regarding death certificates is not a central feature.	18
CONCLUSION	20

TABLE OF AUTHORITIES

	PAGE
CASES	
<i>Greenlaw v. United States</i> , 554 U.S. 237 (2008)	8
<i>In re Proposed Initiative Amend TABOR 25</i> , 900 P.2d 121 (Colo. 1995).....	9
<i>In re Proposed Initiative on Trespass-Streams with Flowing Water</i> , 910 P.2d 21 (Colo. 1996).....	13
<i>In re Title, Ballot Title & Submission Clause for 2011-2012 #3</i> , 274 P.3d 562 (Colo. 2012).....	10
<i>In re Title, Ballot Title and Submission Clause for 2013-2014 #90 & #93</i> , 328 P.3d 155 (Colo. 2014).....	10, 11, 18, 19
<i>In re Title, Ballot Title and Submission Clause for 2015-2016 #63</i> , 2016 CO 34 (Colo. May 16, 2016).....	12
<i>In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #246(e)</i> , 8 P.3d 1194, (Colo. 2000).....	19
<i>In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #258(A)</i> , 4 P.3d 1094 (Colo. 2000).....	16, 17
<i>In re Title, Ballot Title and Submission Clause, and Summary for 2007-2008 #62</i> , 184 P.3d 52 (Colo. 2008)	14
<i>In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #45</i> , 234 P.3d 642 (Colo. 2010)	13, 15, 16
<i>In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #91</i> , 235 P.3d 1071 (Colo. 2010)	13
<i>In re Title, Ballot Title and Submission Clause, and Summary Pertaining to Casino Gambling Initiative</i> , 649 P.2d 303 (Colo. 1982).....	14
<i>In re Title, Ballot Title and Submission Clause, Summary Clause for 1997-1998 #74</i> , 962 P.2d 927 (Colo. 1998).....	10, 12

TABLE OF AUTHORITIES

	PAGE
<i>In re Title, Ballot Title, & Submission Clause for 2013-2014 #76,</i> 333 P.3d 76 (Colo. 2014).....	9, 10
<i>In re Title, Ballot Title, and Submission Clause for 2009-2010 #24,</i> 218 P.3d 350 (Colo. 2009).....	15
<i>In re Title, Ballot Title, and Submission Clause for 2013-2014</i> <i>#103,</i> 328 P.3d 127 (Colo. 2014).....	6
<i>In re Title, Ballot Title, and Submission Clause for Proposed</i> <i>Initiatives 2001-02 #21& #22,</i> 44 P.3d 213 (Colo. 2002)	15, 18
<i>Outcalt v. Schuck,</i> 961 P.2d 1077 (Colo. 1998)	5, 6, 7, 8
 CONSTITUTIONS	
COLO. CONST. art. V, § 1(5.5)	9
 STATUTES	
§ 1-40-106(3)(b), C.R.S. (2015)	14, 15, 19
§ 1-40-106.5(1)(e)(I), C.R.S. (2015).....	9
§ 1-40-107(2), C.R.S. (2015).....	1, 4, 5, 6
 RULES	
C.A.R. 26(a)	7

Title Board members Suzanne Staiert, David Blake, and Jason Gelender (hereinafter “the Board”), by and through undersigned counsel, hereby submit the following Opening Brief.

STATEMENT OF THE ISSUES

- 1) Whether Dr. Stanford’s petition for review was filed beyond the jurisdictional deadline contained in section 1-40-107(2), C.R.S.
- 2) Whether the measure complies with the single subject requirement.
- 3) Whether the title reflects the central features of the measure to accurately convey its true intent and meaning.

STATEMENT OF THE CASE AND FACTS

Jaren Ducker and Julie Selsberg (“Proponents”) seek to circulate Proposed Initiative 2015-2016 #145 (“#145”) to obtain the requisite number of signatures to place a measure on the ballot to add article 48 to Title 25 of the Colorado Revised Statutes, entitled the “Colorado End-

of-Life Options Act.”¹ According to the Proponents, the proposed initiative’s single subject is the right of mentally-capable adults who are Colorado residents and have a medical prognosis of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death. *Hearing Before Title Board on Proposed Initiative 2015-2016 #145, Part I* (Apr. 20, 2016), available at <http://tinyurl.com/zar5zye> , at ~1:31:44 mins. (last visited May 16, 2016).

The Board conducted an initial public hearing on April 20, 2016. The Board unanimously concluded that #145 contains a single subject and therefore proceeded to set a title. *See id.* at ~1:33:17 mins.

Two sets of objectors filed motions for rehearing: (1) Robin Stephens and Renee Walbert, and (2) Dr. Michelle Stanford. Stephens and Walbert’s motion asserted that #145 violates the single subject rule and that the title as set by the Board does not express the true intent of

¹ This measure is similar, though not identical, to #124. Counsel for Proponents informed the Board that only one of the two measures will be circulated for signatures. *Hearing Before Title Board on Proposed Initiative 2015-2016 #145, Part I* (Apr. 20, 2016), available at <http://tinyurl.com/zar5zye>, at ~1:31:13 mins (last visited May 16, 2016).

the proposed measure, which they contend is physician-assisted suicide. *Attachment to Stanford Petition*, pp. 36-39. Dr. Stanford's motion for rehearing similarly argued that the title does not fairly express the true meaning and intent of the proposed law. *See id.* at 40.

The Board conducted a rehearing on April 28, 2016. *Rehearing Before Title Board on Proposed Initiative 2015-2016 #145, Part I* (Apr. 28, 2016), available at <http://tinyurl.com/zar5zye> , at ~1:54:05 mins. (last visited May 16, 2016). The Board reaffirmed its prior conclusion that the single subject rule was satisfied, thus denying Stephens and Walbert's rehearing motion on that basis. The Board then considered the objectors' request to modify the title to include language regarding insurance. However, after discussion a majority of the Board ultimately declined to modify the title as previously set. *See id.* at ~2:15:20. It therefore denied the objectors' rehearing motions in their entirety.

The title for #145 as set by the Board on rehearing is:

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 willing 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.

Attachment to Stanford Petition, p. 54.

Stephens and Walbert filed a timely petition for review with this Court on May 4, 2016, asserting several of the same arguments they advanced before the Board. Dr. Stanford filed a petition for review with this Court on May 6, 2016, one day past the jurisdictional deadline contained in section 1-40-107(2), C.R.S.

SUMMARY OF THE ARGUMENT

The Board's actions in setting a title for #145 should be affirmed. Dr. Stanford's petition for review was filed with this Court one day after

the jurisdictional deadline contained in section 1-40-107(2), C.R.S. This Court therefore lacks jurisdiction to address Dr. Stanford's arguments, requiring dismissal of her petition. As to Stephens and Walbert's arguments, the Board correctly found that #145 contains a single subject. Further, the title as drafted by the Board complies with the clear title standard. The Board was not required to include in the title the phrase "physician-assisted suicide" because it may constitute an impermissible political catch phrase. Similarly, the Board properly declined to include in the title Stephens and Walbert's requested language regarding death certificates. The provision regarding death certificates is not a central feature of #145.

ARGUMENT

I. Dr. Stanford's petition for review is untimely.

A. Standard of Review.

Whether a petition for review is timely-filed is governed by section 1-40-107(2), C.R.S. and this Court's statutory interpretation in *Outcalt v. Schuck*, 961 P.2d 1077, 1080-81 (Colo. 1998). Statutory interpretation is a question of law subject to de novo review. *In re Title, Ballot Title*,

and Submission Clause for 2013-2014 #103, 328 P.3d 127, 129 (Colo. 2014).

B. The petition for review was filed beyond the jurisdictional deadline in section 1-40-107(2), C.R.S.

The statute governing judicial review of the Board's actions provides that any person "not satisfied" with the Board's ruling on a rehearing motion may seek judicial review in this Court. § 1-40-107(2), C.R.S. In that event, the statute states:

[T]he secretary of state shall furnish such person, upon request, a certified copy of the petition with the titles and submission clause of the proposed law or constitutional amendment, together with a certified copy of the motion for rehearing and of the ruling thereon. If filed with the clerk of the supreme court *within seven days thereafter*, the matter shall be disposed of promptly, consistent with the rights of the parties, either affirming the action of the title board or reversing it, in which latter case the court shall remand it with instructions, pointing out where the title board is in error.

§ 1-40-107(2), C.R.S. (emphasis added). This Court interpreted this statute in *Outcelt v. Schuck*, 961 P.2d 1077, 1080-81 (Colo. 1998). There, the Court held that the period for filing an appeal (then five days)

begins to run from the date the Board denies the rehearing motion, not the date the Secretary of State fulfills the request for certified documents. *Id.* The Court explained that a contrary interpretation would “entirely defeat the legislative objectives of finality of Board action and an expedited procedure in the event of an appeal.” *Id.* at 1080. The Court reasoned that the statute places no time limit on the appellant to “request” the certified documents, and thus triggering the appeal deadline off that event could “indefinitely” delay the appeal process “at the instance of a party who has every incentive to favor delay and cause uncertainty.”² *Id.*

Applying this interpretation here, Dr. Stanford’s petition for review is untimely. The Board ruled on her rehearing motion on April 28, 2016, triggering the seven-day appeal period which expired on May 5, 2016. *See* C.A.R. 26(a). Her petition for review was not filed with this Court until May 6, 2016, one day past the deadline.

² In *Outcelt*, the Court ultimately accepted the appellant’s petition as timely-filed because the version of C.A.R. 26(a) then in effect excluded intermediate Saturdays, Sundays and legal holidays. 961 P.2d at 1081. Today, however, the rule states “every day shall be counted including holidays, Saturdays and Sundays.” C.A.R. 26(a).

Accordingly, this Court is without jurisdiction to consider Dr. Stanford's petition for review. *See Outcelt*, 961 P.2d at 1081. *See also Greenlaw v. United States*, 554 U.S. 237, 252 (2008) (stating “[t]he firm deadlines set by the Appellate Rules advance the interests of the parties and the legal system in fair notice and finality.”); *Widener v. District Court*, 200 Colo. 398, 400, 615 P.2d 33, 34 (1980) (“Failure to file a notice of appeal within the prescribed time deprives the appellate court of jurisdiction and precludes a review of the merits.”).

II. The measure does not contain multiple subjects.

Stephens and Walbert argue that #145 violates the single subject rule because “the initiative modifies a number of unrelated statutes affecting mental health treatment, coroner duties, and preventing some types of advanced directives.” *Stephens and Walbert Petition for Review*, p. 4. This Court should reject Stephens and Walbert's argument.

A. Standard of Review and Preservation.

“In reviewing a challenge to the Title Board's single subject determination, [the Supreme Court] employ[s] all legitimate presumptions in favor of the Title Board's actions.” *In re Title, Ballot*

Title, & Submission Clause for 2013-2014 #76, 333 P.3d 76, 79 (Colo. 2014). The Court will “only overturn the Title Board’s finding that an initiative contains a single subject in a clear case.” *Id.* Stephens and Walbert preserved this argument by raising it in their motion for rehearing. *Attachment to Stanford Petition*, pp. 37-38.

B. The Board correctly found that #145 satisfies the single subject rule.

The state constitution provides that “[n]o measure shall be proposed by petition containing more than one subject” COLO. CONST., art. V, § 1(5.5). The purpose of the single subject rule is to “prohibit the practice of putting together in one measure subjects having ‘no necessary or proper connection,’ for the purposes of garnering support for measures from parties who might otherwise stand in opposition.” *In re Proposed Initiative Amend TABOR 25*, 900 P.2d 121, 125 (Colo. 1995) (quoting § 1-40-106.5(1)(e)(I)). “In addition, the requirement seeks to prevent surreptitious measures, surprise and fraud upon the voters.” *Id.* “The subject matter of an initiative must be

necessarily and properly connected rather than disconnected or incongruous.” *In re Title #76*, 333 P.3d at 79.

“An initiative with a single, distinct purpose does not violate the single-subject requirement simply because it spells out details relating to its implementation. As long as the procedures specified have a necessary and proper relationship to the substance of the initiative, they are not a separate subject.” *In re Title, Ballot Title and Submission Clause, Summary Clause for 1997-1998 #74*, 962 P.2d 927, 929 (Colo. 1998).

Similarly, a measure does not violate the single subject requirement simply because it may have different effects on other provisions of Colorado law. *See In re Title, Ballot Title and Submission Clause for 2013-2014 #90 & #93*, 328 P.3d 155, 160-61 (Colo. 2014). Such effects are “irrelevant” to whether the measure contains a single subject. *Id.* at 160 (quoting *In re Title, Ballot Title & Submission Clause for 2011-2012 #3*, 274 P.3d 562, 568 n.2 (Colo. 2012)).

Here, the Board correctly determined that #145’s provisions all relate to the single subject of the right of mentally-capable adults who

are Colorado residents and have a medical prognosis of a terminal illness to receive a prescription from a licensed physician for medication that can be self-administered to bring about death. Each of the purported separate subjects identified by Stephens and Walbert—including impacts on mental health treatment, coroner duties, and advanced medical directives—are either necessarily and properly connected to this single subject or amount to mere effects of the proposed law. Specifically, Stephens and Walbert’s arguments fail because:

- Any impact on mental health treatment under Title 27, or coroners’ duties under Title 30, are mere effects of the proposed law, not a separate subjects. *See In re Title, Ballot Title and Submission Clause for 2013-2014 #90 & #93*, 328 P.3d 155, 160-61 (Colo. 2014). To be sure, the word “coroner” does not even appear in the text of the measure.
- The provision regarding advance medical directives is a mere detail of implementation. The final section of the proposed measure (§ 25-48-123) states that it will have “no effect” on

certain advance medical directives executed under Title 15.

Attachment to Stanford Petition, p. 12. This constitutes a detail of implementation, making clear which law governs in the event of a conflict. *See In re Title #74*, 962 P.2d at 929. Indeed, just this week the Court reemphasized that a “preemption” provision in an initiative is necessarily and properly connected to its central purpose, not a separate subject. *See In re Title, Ballot Title and Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶20 (Colo. May 16, 2016). Here, too, the provision subordinating #145 to other statutes is not a separate subject.

Accordingly, this Court should affirm the Board’s finding that #145 satisfies the single subject rule.

III. The Board’s title for #145 is fair, clear, accurate, and complete.

Stephens and Walbert’s petition for review asserts that the title for #145 does not fairly express the true meaning and intent of the proposed law, which they contend is promoting physician-assisted

suicide and dictating how the cause of death will be reflected on the person's death certificate. This Court should reject these arguments.

A. Standard of Review and Preservation.

The Court does not demand that the Board draft the best possible title. *In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #45*, 234 P.3d 642, 648 (Colo. 2010). The Court grants great deference to the Board in the exercise of its drafting authority. *Id.* The Court will read the title as a whole to determine whether the title properly reflects the intent of the initiative. *Id.* at 649 n.3; *In re Proposed Initiative on Trespass-Streams with Flowing Water*, 910 P.2d 21, 26 (Colo. 1996). The Court will reverse the Board's decision only if the titles are insufficient, unfair, or misleading. *In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #45*, 234 P.3d at 648.

The Court will “employ all legitimate presumptions in favor of the propriety of the Board's actions.” *In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #91*, 235 P.3d 1071, 1076 (Colo. 2010). Only in a clear case should the Court reverse a

decision of the Board. *In re Title, Ballot Title and Submission Clause, and Summary Pertaining to Casino Gambling Initiative*, 649 P.2d 303, 306 (Colo. 1982).

Stephens and Walbert preserved their arguments in their motion for rehearing. *Attachment to Stanford Petition*, p. 38.

B. Clear title standards governing titles set by the Board.

Section 1-40-106(3)(b), C.R.S. establishes the standards for setting titles, requiring they be fair, clear, accurate, and complete. *See In re Title, Ballot Title and Submission Clause, and Summary for 2007-2008 #62*, 184 P.3d 52, 58 (Colo. 2008). The statute provides:

In setting a title, the title 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. The title for the proposed law or constitutional amendment, which shall correctly and fairly express the true intent and meaning thereof, together with the ballot title and submission clause, shall be completed ... within two weeks after the first meeting of the title board. ... Ballot titles shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and, shall

be in the form of a question which may be answered “yes/for” (to vote in favor of the proposed law or constitutional amendment) or “no/against” (to vote against the proposed law or constitutional amendment) and which shall unambiguously state the principle of the provision sought to be added, amended, or repealed.

§ 1-40-106(3)(b), C.R.S.

The Board is not required to set out every detail of the measure in the title. *In re Title, Ballot Title, and Submission Clause for Proposed Initiatives 2001-02 #21& #22*, 44 P.3d 213, 222 (Colo. 2002). Rather, title-setting is about distilling the proposed initiative down to a “reasonably ascertainable expression of the initiative’s purpose.” *In re Title, Ballot Title and Submission Clause, and Summary for 2009-2010 #45*, 234 P.3d 642, 648 (Colo. 2010) (citing *In re Title, Ballot Title, and Submission Clause for 2009-2010 #24*, 218 P.3d 350, 356 (Colo. 2009)). In setting titles the Board may not ascertain the measure’s efficacy, construction, or future application. *In re Title #45*, 234 P.3d at 645.

In addition, a title must not contain a political catch phrase that might mislead the electorate. A catch phrase consists of “words that

work to a proposal's favor without contributing to voter understanding. By drawing attention to themselves and triggering a favorable response, catch phrases generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase." *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100 (Colo. 2000). Catch phrases also include "inflammatory" "phrases that provoke emotion such that they distract from the merits of the proposal" *In re Title #45*, 234 P.3d at 649. The Board's "task is to recognize terms that provoke political emotion and impede voter understanding, as opposed to those which are merely descriptive of the proposal." *In re Title, #258(A)*, 4 P.3d at 1100.

C. The phrase "physician-assisted suicide" may constitute an impermissible catch phrase.

This Court should reject Stephens and Walbert's argument that the phrase "physician-assisted suicide" should appear in the title.

The phrase "physician-assisted suicide" is potentially an impermissible political catch phrase. Including it in the title could

“provoke political emotion and impede voter understanding,” rather than contribute to it. *In re Title #258(A)*, 4 P.3d at 1100. Indeed, members of the Board expressed this exact concern during the rehearing on the companion measure, #124. *See Rehearing Before Title Board on Proposed Initiative 2015-2016 #124, Part I* (Apr. 20, 2016), available at <http://tinyurl.com/zar5zye>, at ~57:35 mins (last visited May 16, 2016).

Instead of inserting this problematic phrase in the title, the Board appropriately exercised its drafting discretion to use phrases that are merely descriptive of the measure. *See In re Title #258(A)*, 4 P.3d at 1100 (stating phrases that “are merely descriptive of the proposal” are not political catch phrases). For example, in setting the title the Board properly used the language “to receive a prescription from a willing licensed physician for medication that can be self-administered to bring about death.” This neutral language is a highly accurate description of what #145 accomplishes, and it prevents any voter misunderstanding or emotion that may result from political catch phrases.

D. The provision regarding death certificates is not a central feature.

Stephens and Walbert also assert that the title fails to reflect that #145 dictates how the cause of death will be reflected on the person's death certificate, or that it will be "something other than suicide." *Stephens and Walbert Petition*, p. 4. This Court should reject these arguments.

"The Title Board's duty in setting a title is to summarize the central features of a proposed initiative." *In re Title, Ballot Title and Submission Clause for 2013-2014 #90 & #93*, 328 P.3d 155, 162 (Colo. 2014). The Board is not required to set out every detail of the measure in the title. *In re Title, Ballot Title, and Submission Clause for Proposed Initiatives 2001-02 #21& #22*, 44 P.3d 213, 222 (Colo. 2002).

Here, the measure contains 23 different statutory sections that detail how #145's single subject is to be implemented. *Attachment to Stanford Petition*, pp. 2-12. They range from detailing how unused lethal medical prescriptions are to be disposed of (§ 25-48-120), to specifying the number of witnesses that must observe the patient's

request for the medical protocol (§ 25-48-104(2)(a)(III)). Stephens and Walbert believe that one of these statutory sections concerning death certificates (§ 25-48-109) should be mentioned in the title. That section provides that the cause of death “shall be listed as the underlying terminal illness” *Attachment to Stanford Petition*, p. 7.

However, the Board is not required, nor is it possible, to draft a title that captures each of these minor details. Ballot titles are to “be brief,” § 1-40-106(3)(b), C.R.S., and “succinct.” *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #246(e)*, 8 P.3d 1194, 1197 (Colo. 2000). The provision concerning death certificates is not a central feature of the measure. *In re Title #90 & #93*, 328 P.3d at 162. As noted by one of the Board members in rejecting this argument in the companion measure, the Board’s task is to craft a title that is “not sprawling.” *Rehearing Before Title Board on Proposed Initiative 2015-2016 #124, Part I* (Apr. 20, 2016), available at <http://tinyurl.com/zar5zye>, at ~1:08:30 mins.

Accordingly, because #145’s title as set by the Board satisfies the clear title standard, this Court should affirm.

CONCLUSION

For the above-stated reasons, the Court should dismiss Dr. Stanford's petition for review and affirm the Board's actions in setting the title for #145.

Respectfully submitted this 19th day of May, 2016.

CYNTHIA H. COFFMAN
Attorney General

s/ Grant T. Sullivan

GRANT T. SULLIVAN, 40151*
Assistant Solicitor General
State Services Section
Public Officials Unit
Attorney for the Title Board
* Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S OPENING BRIEF** upon the following parties or their counsel electronically via ICCES and/or via U.S. first class mail at Denver, Colorado this 19th day of May, 2016 addressed as follows:

Carrie Ann Lucas
Disabled Parents Rights
1270 Automation Drive, Suite 2000
Windsor, CO 80550

Thomas M. Rogers III
Hermine Kallman
LEWIS ROCA ROTHGERBER CHRISTIE LLP
1200 17th Street, Suite 3000
Denver, CO 80202

Mark G. Grueskin
RECHT KORNFELD, PC
1600 Stout Street, Suite 1000
Denver, CO 80202

s/ Terri Connell

Terri Connell