

DATE FILED: April 24, 2024 6:12 PM



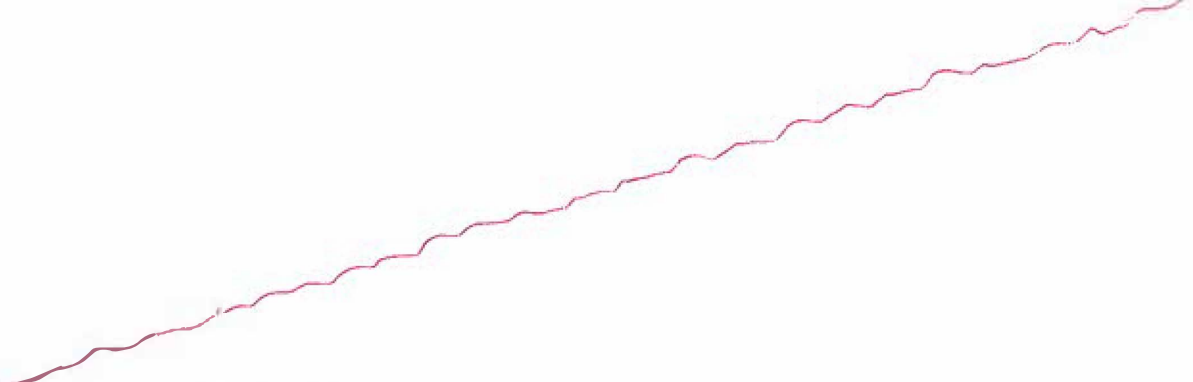
STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **JENA GRISWOLD**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, fiscal summary, motion for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2023-2024 #175 'Prohibit Certain Medical Procedures for Minors'".



.....**IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado,
at the City of Denver this 23rd day of April, 2024.

Jena Griswold

SECRETARY OF STATE



Medical transgender procedure ban initiative draft language:

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

SECTION 1. Declaration of the People of Colorado. (1) The People find, declare, and determine that:

(a) They must take action to protect the health and welfare of minors;

(b) Medical procedures that alter a minor's hormonal balance, remove a minor's sex organs, or otherwise change a minor's physical appearance are harmful to a minor when these medical procedures are performed for the purpose of changing the minor's sex.. Moreover, the People of Colorado find it likely that not all harmful effects associated with these types of medical procedures when performed on a minor are yet fully known, as many of these procedures, when performed on a minor for such purposes, are experimental in nature and not supported by high-quality, long-term medical studies;

(c) Medical procedures that aim to change the sex or gender of a minor are not consistent with professional

medical standards when the medical procedures are performed for the purpose of changing the minor's sex or gender

because a minor's discordance can be resolved by less invasive approaches that are likely to result in better outcomes for the minor;

(d) Medical procedures are being performed on and administered to minors in this state for such purposes, notwithstanding the risks and harms to the minors;

(e) The health authorities in Sweden, Finland, and the United Kingdom have recognized similar trends and, after conducting systematic reviews of the evidence, have found no evidence that the benefits of these procedures outweigh the risks and thus have placed severe restrictions on

their use;

(f) Over half of US states prohibit medical procedures that aim to change a minor's sex or gender.

(g) Minors lack the maturity to fully understand and appreciate the life-altering consequences of such procedures and many individuals have expressed regret for medical

procedures that were performed on or administered to them for such purposes when they were minors. This is evidenced by current Colorado law, which prohibits minors from receiving tattoos, much less drastic than the procedures prohibited herein

(2) Therefore, it is the purpose of this section to prohibit medical procedures from being administered to or performed on minors when the purpose of the medical procedure is to:

(a) Change the gender or sex of the minor.

SECTION 2. In Colorado Revised Statutes, add 12-30-123 as follows:

12-30-123 Definitions.

(1) AS USED IN THIS SECTION:

(a) "CONGENITAL DEFECT" MEANS A PHYSICAL OR CHEMICAL ABNORMALITY PRESENT IN A MINOR

THAT IS INCONSISTENT WITH THE NORMAL DEVELOPMENT OF A HUMAN BEING OF THE MINOR'S SEX, INCLUDING

ABNORMALITIES CAUSED BY A MEDICALLY VERIFIABLE DISORDER OF SEX DEVELOPMENT, BUT DOES NOT

INCLUDE GENDER DYSPHORIA, GENDER IDENTITY DISORDER, GENDER INCONGRUENCE, OR ANY MENTAL

CONDITION, DISORDER, DISABILITY, OR ABNORMALITY;

(b) "HEALTHCARE PROVIDER" MEANS A HEALTHCARE PROFESSIONAL, ESTABLISHMENT, OR FACILITY

LICENSED, REGISTERED, CERTIFIED, OR PERMITTED PURSUANT TO THIS TITLE;

(c) "HORMONE" MEANS AN ANDROGEN OR ESTROGEN;

(e) "MEDICAL PROCEDURE" MEANS:

(I) SURGICALLY REMOVING, MODIFYING, ALTERING, OR ENTERING INTO TISSUES, CAVITIES, OR ORGANS

OF A HUMAN BEING; OR

(II) PRESCRIBING, ADMINISTERING, OR DISPENSING ANY DRUG OR SUBSTANCE, INCLUDING BUT NOT

LIMITED TO A PUBERTY BLOCKER OR HORMONE, TO A HUMAN BEING;

(f) "MINOR" MEANS AN INDIVIDUAL UNDER EIGHTEEN (18) YEARS OF AGE;

(g) "PARENT" MEANS ANY BIOLOGICAL, LEGAL, OR ADOPTIVE PARENT OR PARENTS OF THE MINOR OR

ANY LEGAL GUARDIAN OF THE MINOR;

(h) "PUBERTY BLOCKER" MEANS A DRUG OR DEVICE THAT SUPPRESSES THE PRODUCTION OF HORMONES IN A MINOR'S BODY TO STOP, DELAY, OR SUPPRESS PUBERTAL DEVELOPMENT; AND

(i) "SEX" MEANS A PERSON'S IMMUTABLE CHARACTERISTICS OF THE REPRODUCTIVE SYSTEM THAT

DEFINE THE INDIVIDUAL AS MALE OR FEMALE, AS DETERMINED BY ANATOMY AND GENETICS EXISTING AT THE

TIME OF BIRTH.

(2) (a) A HEALTHCARE PROVIDER SHALL NOT PERFORM OR OFFER TO PERFORM ON A MINOR, OR ADMINISTER OR OFFER TO ADMINISTER TO A MINOR, A MEDICAL PROCEDURE IF THE PERFORMANCE OR

ADMINISTRATION OF THE PROCEDURE IS FOR THE PURPOSE OF:

(I) MEDICALLY CHANGING THE GENDER OF THE MINOR

(II)

(b) SUBDIVISION (a)(1) APPLIES TO MEDICAL PROCEDURES THAT ARE:

(I) PERFORMED OR ADMINISTERED IN THIS STATE; OR

(II) PERFORMED OR ADMINISTERED ON A MINOR LOCATED IN THIS STATE, INCLUDING VIA TELEHEALTH,

AS DEFINED IN SECTION 10-16-123.

(3) (a) IT IS NOT A VIOLATION OF THIS SECTION IF A HEALTHCARE PROVIDER PERFORMS, OR OFFERS TO

PERFORM, A MEDICAL PROCEDURE ON OR ADMINISTERS, OR OFFERS TO ADMINISTER, A MEDICAL PROCEDURE TO

A MINOR IF:

(I) THE PERFORMANCE OR ADMINISTRATION OF THE MEDICAL PROCEDURE IS TO TREAT A MINOR'S

CONGENITAL DEFECT, PRECOCIOUS PUBERTY, DISEASE, OR PHYSICAL INJURY; OR

(II) THE PERFORMANCE OR ADMINISTRATION OF THE MEDICAL PROCEDURE ON THE MINOR BEGAN

PRIOR TO AND CONCLUDED BY THE EFFECTIVE DATE OF THIS SECTION.

(b) FOR PURPOSES OF THIS SECTION, "DISEASE" DOES NOT INCLUDE GENDER DYSPHORIA, GENDER

IDENTITY DISORDER, GENDER INCONGRUENCE, OR ANY MENTAL CONDITION, DISORDER, DISABILITY, OR

ABNORMALITY.

(4) (a) IT IS NOT A DEFENSE TO ANY LEGAL LIABILITY INCURRED AS THE RESULT OF A VIOLATION OF

THIS SECTION THAT THE MINOR, OR A PARENT OF THE MINOR, CONSENTED TO THE CONDUCT THAT CONSTITUTED

THE VIOLATION.

(5) THIS SECTION SUPERSEDES ANY COMMON LAW RULE REGARDING A MINOR'S ABILITY TO CONSENT

TO A MEDICAL PROCEDURE THAT IS PERFORMED OR ADMINISTERED FOR THE PURPOSE OF:

(a) CHANGING THE GENDER OF THE MINOR.

(6) A PERSON SHALL NOT KNOWINGLY PROVIDE A HORMONE OR PUBERTY BLOCKER BY ANY MEANS TO A MINOR IF THE PROVISION OF THE HORMONE OR PUBERTY BLOCKER IS NOT IN COMPLIANCE WITH THIS SECTION.

(7) (a) A MINOR, OR THE PARENT OF A MINOR, INJURED AS A RESULT OF A VIOLATION OF THIS SECTION, MAY BRING A CIVIL CAUSE OF ACTION TO RECOVER COMPENSATORY DAMAGES, PUNITIVE DAMAGES,

AND REASONABLE ATTORNEY'S FEES, COURT COSTS, AND EXPENSES, AND ANY OTHER RELIEF AVAILABLE UNDER

LAW AGAINST ANY HEALTHCARE PROVIDER, PERSON, OR OTHER ENTITY ALLEGED TO HAVE VIOLATED THIS

SECTION OR ANY HEALTHCARE PROVIDER, PERSON, OR OTHER ENTITY THAT SUPPORTED THE ALLEGED

VIOLATION OF THIS SECTION. THE PARENT OF A MINOR INJURED AS A RESULT OF A VIOLATION OF THIS SECTION

MAY BRING A CIVIL CAUSE OF ACTION AGAINST A HEALTHCARE PROVIDER OR ANOTHER PERSON EVEN IF THE

PARENT CONSENTED TO THE CONDUCT THAT CONSTITUTED THE VIOLATION ON BEHALF OF THE MINOR.

(b) THE PARENT OR NEXT OF KIN OF A MINOR MAY BRING A WRONGFUL DEATH ACTION AGAINST A

HEALTHCARE PROVIDER ALLEGED TO HAVE VIOLATED THIS SECTION IF THE INJURED MINOR IS DECEASED AND

THE MINOR'S DEATH IS THE RESULT OF THE PHYSICAL OR EMOTIONAL HARM INFLICTED UPON THE MINOR BY THE

VIOLATION.

(c) IF A COURT IN ANY CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION FINDS THAT A HEALTHCARE PROVIDER VIOLATED THIS SECTION, THEN THE COURT SHALL NOTIFY THE APPROPRIATE

REGULATORY AUTHORITY AND THE ATTORNEY GENERAL. NOTIFICATION PURSUANT TO THIS SUBSECTION (C)

SHALL BE MADE UPON THE JUDGMENT OF THE COURT BEING MADE FINAL.

(d) FOR PURPOSES OF THIS SECTION, COMPENSATORY DAMAGES MAY INCLUDE:

(I) REASONABLE ECONOMIC LOSSES CAUSED BY THE EMOTIONAL, MENTAL, OR PHYSICAL EFFECTS OF

THE VIOLATION, INCLUDING, BUT NOT LIMITED TO:

(A) THE COST OF COUNSELING, HOSPITALIZATION, AND ANY OTHER MEDICAL EXPENSES CONNECTED

WITH TREATING THE HARM CAUSED BY THE VIOLATION;

(B) ANY OUT-OF-POCKET COSTS THE MINOR OR PARENT PAID TO THE HEALTHCARE PROVIDER FOR THE

PROHIBITED MEDICAL PROCEDURE; AND

(C) LOSS OF INCOME CAUSED BY THE VIOLATION; AND

(II) NONECONOMIC DAMAGES CAUSED BY THE VIOLATION, INCLUDING, BUT NOT LIMITED TO, PSYCHOLOGICAL AND EMOTIONAL ANGUISH.

(e) NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN ACTION COMMENCED UNDER THIS SECTION

MUST BE BROUGHT:

(I) WITHIN THIRTY (30) YEARS FROM THE DATE THE MINOR REACHES EIGHTEEN (18) YEARS OF AGE; OR

(II) WITHIN TEN (10) YEARS OF THE MINOR'S DEATH IF THE MINOR DIES.

(f) THIS SUBSECTION IS DECLARED TO BE REMEDIAL IN NATURE, AND THIS SUBSECTION MUST BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

(8) (a) THE ATTORNEY GENERAL SHALL ESTABLISH A PROCESS BY WHICH ANY INDIVIDUAL MAY CONFIDENTIALLY REPORT AN ALLEGED VIOLATION OF THIS SECTION.

(b) THE ATTORNEY GENERAL SHALL BRING AN ACTION AGAINST A HEALTHCARE PROVIDER OR ANY

PERSON THAT VIOLATES THIS SECTION, WITHIN TWENTY (20) YEARS OF THE VIOLATION, TO ENJOIN FURTHER

VIOLATIONS, TO DISGORGE ANY PROFITS RECEIVED DUE TO THE MEDICAL PROCEDURE, AND TO RECOVER A CIVIL

PENALTY OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) PER VIOLATION. EACH TIME A HEALTHCARE

PROVIDER PERFORMS OR ADMINISTERS A MEDICAL PROCEDURE IN VIOLATION OF THIS SECTION IT CONSTITUTES A

SEPARATE VIOLATION.

(c) A CIVIL PENALTY COLLECTED PURSUANT TO THIS SECTION MUST BE PAID INTO THE GENERAL FUND

OF THIS STATE.

(d) THE ATTORNEY GENERAL IS ENTITLED TO REASONABLE ATTORNEY'S FEES, COURT COSTS, AND

EXPENSES IF THE ATTORNEY GENERAL PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS SECTION.

(e) JURISDICTION FOR AN ACTION BROUGHT PURSUANT TO THIS SECTION IS IN THE COUNTY OR DISTRICT COURT IN THE COUNTY WHERE THE VIOLATION OCCURRED.

(9) A VIOLATION OF THIS SECTION CONSTITUTES A POTENTIAL THREAT TO PUBLIC HEALTH, SAFETY, AND WELFARE AND REQUIRES EMERGENCY ACTION BY AN ALLEGED VIOLATOR'S APPROPRIATE REGULATORY AUTHORITY. UPON RECEIVING NOTIFICATION PURSUANT TO THIS SECTION, OR UPON OTHERWISE BECOMING AWARE OF AN ALLEGED VIOLATION OF THIS SECTION, THE APPROPRIATE REGULATORY AUTHORITY SHALL PROCEED PURSUANT TO THIS TITLE, AS APPLICABLE.

(10) A MINOR UPON WHOM A MEDICAL PROCEDURE IS PERFORMED OR ADMINISTERED SHALL NOT BE HELD LIABLE FOR VIOLATING THIS SECTION.

(11) IF ANY PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THAT INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS SECTION ARE DECLARED SEVERABLE.

SECTION 3. Effective date. This initiative takes effect if it is approved by the people at the next general election and becomes law, and, in such case, this takes effect on the date of the original declaration of the vote thereon by the governor.

Medical transgender procedure ban initiative draft language:

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

SECTION 1. Declaration of the People of Colorado. (1) The People find, declare, and determine that:

(a) They must take action to protect the health and welfare of minors;

(b) Medical procedures that alter a minor's hormonal balance, remove a minor's sex organs, or otherwise change a minor's physical appearance are harmful to a minor when these medical procedures are performed for the purpose of enabling a minor to identify with, or live as, a purported identity inconsistent with the minor's sex or treating purported discomfort or disease and illness, or suffering from adverse and sometimes fatal psychological consequences. Moreover, the People of Colorado find it likely that not all harmful effects associated with these types of medical procedures when performed on a minor are yet fully known, as many of these procedures, when performed on a minor for such purposes, are experimental in nature and not supported by high-quality, long-term medical studies.

(c) Medical procedures that alter a minor's hormonal balance, remove a minor's sex organs, or otherwise change a minor's physical appearance are not consistent with professional medical standards when the medical procedures are performed for the purpose of enabling a minor to identify with, or live as, a purported identity inconsistent with the minor's sex or treating purported discomfort or distress from a discordance between the minor's sex and asserted identity because a minor's discordance can be resolved by less invasive approaches that are likely to result in better outcomes for the minor; Puberty blockers and cross-sex hormones result in the sterilization of minors and have shown to have other harmful medical side effects including osteoporosis. Leuprolide (brand name Lupron) is a popular puberty blocker used off-label in gender transformation therapy to restrict androgen production in minors. Lupron is defined as a chemical castration drug and used to perform chemical castration of violent sex offenders.

(d) Medical procedures are being performed on and administered to minors in this state for such purposes, notwithstanding the risks and harms to the minors;

(e) The health authorities in Sweden, Finland, and the United Kingdom have recognized similar trends and, after conducting systematic reviews of the evidence, have found no evidence that the benefits of these procedures outweigh the risks and thus have placed severe restrictions on their use;

(f) Dr. John Money, one of the earliest advocates for performing or administering such medical procedures on minors and a founder of the Johns Hopkins Gender Identity Clinic, abused minors entrusted to his care, resulting in the suicides of David and Brian Reimer; Dr. Money's research has since been determined to be fraudulent and discredited;

(g) Such medical procedures are being performed on and administered to minors in this state with rapidly increasing frequency and supposed guidelines advocating for such treatment have changed substantially in recent years;

(h) Minors lack the maturity to fully understand and consent to the life-altering consequences of such procedures and many individuals have expressed regret for medical

procedures that were performed on or administered to them for such purposes when they were minors;

(i) Many of the same pharmaceutical companies that contributed to the opioid epidemic have sought to profit from the administration of drugs to or use of devices on minors for such purposes and have paid consulting fees to physicians who then advocate for the administration of drugs or use of devices for such purposes;

(j) Health-care providers in this state have sought to perform such surgeries on minors because of the financial incentive associated with the surgeries, not necessarily because the surgeries are in a minor's best interest;

(k) Health-care providers in this state have threatened employees for conscientiously objecting, for religious, moral, or ethical reasons, to performing or administering such medical procedures;

(l) Health-care providers in this state have posted pictures of naked minors online to advertise such surgeries; and

(m) The integrity and public respect of the medical profession are significantly harmed by health-care providers performing or administering such medical procedures on minors. This state has a legitimate, substantial, and compelling interest in protecting minors from physical and emotional harm. This state has a legitimate, substantial, and compelling interest in protecting the ability of minors to develop into adults who can create children of their own. This state has a legitimate, substantial, and compelling interest in promoting the dignity of minors. This state has a legitimate, substantial, and compelling interest in encouraging minors to appreciate their sex, particularly as they undergo puberty. This state has a legitimate, substantial, and compelling interest in protecting the integrity of the medical profession, including by prohibiting medical procedures that are harmful, unethical, immoral, experimental, or unsupported by high-quality or long-term studies, or that might encourage minors to become disdainful of their sex.

(2) Therefore, it is the purpose of this section to prohibit medical procedures from being administered to or performed on minors when the purpose of the medical procedure is to:

(a) Enable a minor to identify with, or live as, a purported identity inconsistent with the minor's sex; or

(b) Treat purported discomfort or distress from a discordance between the minor's sex and asserted identity.

SECTION 2. In Colorado Revised Statutes, **add** 12-30-123 as follows:

12-30-123 Unprofessional conduct - prohibited medical procedures on minors – definitions – remedy - enforcement. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONGENITAL DEFECT" MEANS A PHYSICAL OR CHEMICAL ABNORMALITY PRESENT IN A MINOR THAT IS INCONSISTENT WITH THE NORMAL DEVELOPMENT OF A HUMAN BEING OF THE MINOR'S SEX, INCLUDING ABNORMALITIES CAUSED BY A MEDICALLY VERIFIABLE DISORDER OF SEX DEVELOPMENT, BUT DOES NOT INCLUDE GENDER DYSPHORIA, GENDER IDENTITY DISORDER, GENDER INCONGRUENCE, OR A MENTAL CONDITION, DISORDER, DISABILITY, OR ABNORMALITY.

(b) "HEALTH-CARE PROVIDER" MEANS A HEALTH-CARE PROFESSIONAL, ESTABLISHMENT, OR FACILITY LICENSED, REGISTERED, CERTIFIED, OR PERMITTED PURSUANT TO THIS TITLE.

(c) "HORMONE" MEANS AN ANDROGEN OR ESTROGEN.

(d) "MEDICAL PROCEDURE" MEANS:

(I) SURGICALLY REMOVING, MODIFYING, ALTERING, OR ENTERING INTO TISSUES, CAVITIES, OR ORGANS OF A HUMAN BEING; OR

(II) PRESCRIBING, ADMINISTERING, OR DISPENSING A DRUG OR SUBSTANCE, INCLUDING BUT NOT LIMITED TO A PUBERTY BLOCKER OR HORMONE, TO A HUMAN BEING.

(e) "MINOR" MEANS AN INDIVIDUAL UNDER EIGHTEEN (18) YEARS OF AGE.

(f) "PARENT" MEANS THE BIOLOGICAL, LEGAL, OR ADOPTIVE PARENT OR PARENTS OF THE MINOR OR A LEGAL GUARDIAN OF THE MINOR.

(g) "PUBERTY BLOCKER" MEANS A DRUG OR DEVICE THAT SUPPRESSES THE PRODUCTION OF HORMONES IN A MINOR'S BODY TO STOP, DELAY, OR SUPPRESS PUBERTAL DEVELOPMENT.

(h) "SEX" MEANS A PERSON'S IMMUTABLE CHARACTERISTICS OF THE REPRODUCTIVE SYSTEM THAT DEFINE THE INDIVIDUAL AS MALE OR FEMALE, AS DETERMINED BY ANATOMY AND GENETICS EXISTING AT THE TIME OF BIRTH.

(2) (a) A HEALTH-CARE PROVIDER SHALL NOT PERFORM OR OFFER TO PERFORM ON A MINOR, OR ADMINISTER OR OFFER TO ADMINISTER TO A MINOR, A MEDICAL PROCEDURE IF THE PERFORMANCE OR ADMINISTRATION OF THE PROCEDURE IS FOR THE PURPOSE OF:

(I) ENABLING A MINOR TO IDENTIFY WITH, OR LIVE AS, A PURPORTED IDENTITY INCONSISTENT WITH THE MINOR'S SEX; OR

(II) TREATING PURPORTED DISCOMFORT OR DISTRESS FROM A DISCORDANCE BETWEEN THE MINOR'S SEX AND ASSERTED IDENTITY.

(b) SUBDIVISION (a)(1) APPLIES TO MEDICAL PROCEDURES THAT ARE:

(I) PERFORMED OR ADMINISTERED IN THIS STATE; OR

(II) PERFORMED OR ADMINISTERED ON A MINOR LOCATED IN THIS STATE, INCLUDING VIA TELEHEALTH, AS DEFINED IN SECTION 10-16-123.

(3) (a) IT IS NOT A VIOLATION OF THIS SECTION IF A HEALTH-CARE PROVIDER PERFORMS, OR OFFERS TO PERFORM, A MEDICAL PROCEDURE ON OR ADMINISTERS, OR OFFERS TO ADMINISTER, A MEDICAL PROCEDURE TO A MINOR IF:

(I) THE PERFORMANCE OR ADMINISTRATION OF THE MEDICAL PROCEDURE IS TO TREAT A MINOR'S CONGENITAL DEFECT, PRECOCIOUS PUBERTY, DISEASE, OR PHYSICAL INJURY; OR

(II) THE PERFORMANCE OR ADMINISTRATION OF THE MEDICAL PROCEDURE ON THE MINOR BEGAN PRIOR TO AND CONCLUDED BY THE EFFECTIVE DATE OF THIS SECTION.

(b) FOR PURPOSES OF THIS SECTION, "DISEASE" DOES NOT INCLUDE GENDER DYSPHORIA, GENDER IDENTITY DISORDER, GENDER INCONGRUENCE, OR A MENTAL CONDITION, DISORDER, DISABILITY, OR ABNORMALITY.

(4) IT IS NOT A DEFENSE TO ANY LEGAL LIABILITY INCURRED AS THE RESULT OF A VIOLATION OF THIS SECTION THAT THE MINOR, OR A PARENT OF THE MINOR, CONSENTED TO THE CONDUCT THAT CONSTITUTED THE VIOLATION.

(5) THIS SECTION SUPERSEDES ALL COMMON LAW RULES REGARDING A MINOR'S ABILITY TO CONSENT TO A MEDICAL PROCEDURE THAT IS PERFORMED OR ADMINISTERED FOR THE PURPOSE OF:

(a) ENABLING THE MINOR TO IDENTIFY WITH, OR LIVE AS, A PURPORTED IDENTITY INCONSISTENT WITH THE MINOR'S SEX; OR

(b) TREATING PURPORTED DISCOMFORT OR DISTRESS FROM A DISCORDANCE BETWEEN THE MINOR'S SEX AND ASSERTED IDENTITY.

(6) A PERSON SHALL NOT KNOWINGLY PROVIDE A HORMONE OR PUBERTY BLOCKER BY ANY MEANS TO A MINOR IF THE PROVISION OF THE HORMONE OR PUBERTY BLOCKER IS NOT IN COMPLIANCE WITH THIS SECTION.

(7) (a) A MINOR, OR THE PARENT OF A MINOR, INJURED AS A RESULT OF A VIOLATION OF THIS SECTION, MAY BRING A CIVIL CAUSE OF ACTION TO RECOVER COMPENSATORY DAMAGES, PUNITIVE DAMAGES, AND REASONABLE ATTORNEY'S FEES, COURT COSTS, AND EXPENSES, AND ALL OTHER RELIEF AVAILABLE UNDER LAW AGAINST A HEALTH-CARE PROVIDER, PERSON, OR OTHER ENTITY ALLEGED TO HAVE VIOLATED THIS SECTION OR A HEALTH-CARE PROVIDER, PERSON, OR OTHER ENTITY THAT SUPPORTED THE ALLEGED VIOLATION OF THIS SECTION. THE PARENT OF A MINOR INJURED AS A RESULT OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL CAUSE OF ACTION AGAINST A HEALTH-CARE PROVIDER OR ANOTHER PERSON EVEN IF THE PARENT CONSENTED TO THE CONDUCT THAT CONSTITUTED THE VIOLATION ON BEHALF OF THE MINOR.

(b) For purposes of subsection (7)(a) of this section, an injury includes but is not limited to a change to the anatomy, physiology, or psychology of an individual resulting from a medical procedure conducted in violation of this section irrespective of whether the medical procedure was performed, provided, prescribed, administered, or attempted with the intent to cause the change.

(c) THE PARENT OR NEXT OF KIN OF A MINOR MAY BRING A WRONGFUL DEATH ACTION AGAINST A HEALTH-CARE PROVIDER ALLEGED TO HAVE VIOLATED THIS SECTION IF THE INJURED MINOR IS DECEASED AND THE MINOR'S DEATH IS THE RESULT OF THE PHYSICAL OR EMOTIONAL HARM INFLICTED UPON THE MINOR BY THE VIOLATION.

(d) IF A COURT IN A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION FINDS THAT A HEALTH-CARE PROVIDER VIOLATED THIS SECTION, THEN THE COURT SHALL NOTIFY THE APPROPRIATE REGULATORY AUTHORITY AND THE ATTORNEY GENERAL. NOTIFICATION PURSUANT TO THIS SUBSECTION (7)(C) IS TO BE MADE UPON THE JUDGMENT OF THE COURT BEING MADE FINAL.

(e) FOR PURPOSES OF THIS SECTION, COMPENSATORY DAMAGES MAY INCLUDE:

(I) REASONABLE ECONOMIC LOSSES CAUSED BY THE EMOTIONAL, MENTAL, OR PHYSICAL EFFECTS OF THE VIOLATION, INCLUDING, BUT NOT LIMITED TO:

(A) THE COST OF COUNSELING, HOSPITALIZATION, AND ALL OTHER MEDICAL EXPENSES CONNECTED WITH TREATING THE HARM CAUSED BY THE VIOLATION;

(B) THE OUT-OF-POCKET COSTS THE MINOR OR PARENT PAID TO THE HEALTH-CARE PROVIDER FOR THE PROHIBITED MEDICAL PROCEDURE; AND

(C) LOSS OF INCOME CAUSED BY THE VIOLATION; AND

(II) NONECONOMIC DAMAGES CAUSED BY THE VIOLATION, INCLUDING, BUT NOT LIMITED TO, PSYCHOLOGICAL AND EMOTIONAL ANGUISH.

(f) NOTWITHSTANDING A LAW TO THE CONTRARY, AN ACTION COMMENCED UNDER THIS SECTION MUST BE BROUGHT:

(I) WITHIN THIRTY YEARS FROM THE DATE THE MINOR REACHES EIGHTEEN YEARS OF AGE; OR

(II) WITHIN TEN YEARS OF THE MINOR'S DEATH IF THE MINOR DIES.

(g) THIS SUBSECTION (7) IS DECLARED TO BE REMEDIAL IN NATURE AND SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

(8) (a) THE ATTORNEY GENERAL SHALL ESTABLISH A PROCESS BY WHICH AN INDIVIDUAL MAY CONFIDENTIALLY REPORT AN ALLEGED VIOLATION OF THIS SECTION.

(b) Notwithstanding whether a minor, or a parent of a minor, brings a civil action pursuant to subsection (7) of this section, THE ATTORNEY GENERAL SHALL, IF WITHIN TWENTY YEARS OF THE VIOLATION, BRING AN ACTION AGAINST A HEALTH-CARE PROVIDER OR A PERSON THAT VIOLATES THIS SECTION WITHOUT UNDUE DELAY TO ENJOIN FURTHER VIOLATIONS, TO DISGORGE ALL PROFITS RECEIVED DUE TO THE MEDICAL PROCEDURE, AND TO RECOVER A CIVIL PENALTY OF TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION. EACH TIME A HEALTH-CARE PROVIDER PERFORMS OR ADMINISTERS A MEDICAL PROCEDURE IN VIOLATION OF THIS SECTION IT CONSTITUTES A SEPARATE VIOLATION.

(c) A CIVIL PENALTY COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THIS STATE.

(d) THE ATTORNEY GENERAL IS ENTITLED TO REASONABLE ATTORNEY'S FEES, COURT COSTS, AND EXPENSES IF THE ATTORNEY GENERAL PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS SECTION.

(e) JURISDICTION FOR AN ACTION BROUGHT PURSUANT TO THIS SECTION IS IN THE COUNTY OR DISTRICT COURT IN THE COUNTY WHERE THE VIOLATION OCCURRED.

(9) (a) A VIOLATION OF THIS SECTION CONSTITUTES A POTENTIAL THREAT TO PUBLIC HEALTH, SAFETY, AND WELFARE AND REQUIRES IMMEDIATE ACTION BY AN ALLEGED VIOLATOR'S APPROPRIATE REGULATORY AUTHORITY. UPON RECEIVING NOTIFICATION PURSUANT TO THIS SECTION, OR UPON OTHERWISE BECOMING AWARE OF AN ALLEGED VIOLATION OF THIS SECTION, THE APPROPRIATE REGULATORY AUTHORITY SHALL PROCEED PURSUANT TO THIS TITLE 12, AS APPLICABLE.

(b) A LICENSEE, REGISTRANT, OR CERTIFICANT ENGAGES IN UNPROFESSIONAL CONDUCT OR IS SUBJECT TO DISCIPLINE PURSUANT TO THIS TITLE 12 IF THE LICENSEE, REGISTRANT, OR CERTIFICANT PERFORMS, PROVIDES, PRESCRIBES, ADMINISTERS, OR ATTEMPTS A MEDICAL PROCEDURE IN VIOLATION OF THIS SECTION.

(10) A MINOR UPON WHOM A MEDICAL PROCEDURE IS PERFORMED OR ADMINISTERED SHALL NOT BE HELD LIABLE FOR VIOLATING THIS SECTION.

(11) IF A PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO A PERSON OR CIRCUMSTANCE

IS HELD INVALID, THAT INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS SECTION ARE DECLARED SEVERABLE.

SECTION 3. Effective date. This initiative takes effect if it is approved by the people at the next general election and becomes law, and, in such case, this takes effect on the date of the original declaration of the vote thereon by the governor.

Ballot Title Setting Board

Proposed Initiative 2023-2024 #175 (Resubmitted)¹

Hearing April 17, 2024:

Title setting denied on the grounds that the Board lacks jurisdiction due to the proponents not only eliminated but added language to the measures and failed to file the measure in accordance with Article V, Section 1 (5.5) of the Colorado Constitution.

Board Members: Theresa Conley, Kurt Morrison, Jeremiah Barry

Hearing adjourned 3:19 P.M.

¹ Unofficially captioned “**Prohibit Certain Medical Procedures for Minors**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

Ballot Title Setting Board

Proposed Initiative 2023-2024 #175¹

Hearing March 6, 2024:

Single subject approved; staff draft amended; titles set.

Board members: Theresa Conley, Jeremiah Barry, Kurt Morrison

Hearing adjourned 1:43 P.M.

Hearing April 3, 2024:

Motion for rehearing granted; title setting denied on the grounds that the initiative contains multiple subjects and the Board lacks jurisdiction to set title (3-0).

Board Members: Theresa Conley, Kurt Morrison, Jeremiah Barry

Hearing adjourned 3:55 P.M.

¹ Unofficially captioned “**Prohibit Certain Medical Procedures for Minors**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Jamie Gentry-Cunningham, Jenna Lea Candraia Clinchard,
Jude Kacey Clinchard, Iris Halpern and Dr. Lora Melnicoe,
Objectors,

v.

Darcy Schoening and Wayne Goodall,
Proponents of Initiative 2023-2024 #175.

**MOTION FOR REHEARING ON
INITIATIVE 2023-2024 #175**

Through their legal counsel, Jamie Gentry-Cunningham, Jenna Lea Candraia Clinchard, and Jude Kacey Clinchard, registered electors of Boulder County, and Iris Halpern and Dr. Lora Melnicoe, registered electors of Denver County, hereby file this motion for rehearing on Initiative 2023-2024 #175.

On March 6, 2024, the Title Setting Board set the following ballot title and submission clause for Initiative 2023-2024 #175:

Shall there be a change to the Colorado Revised Statutes prohibiting a healthcare provider from performing gender transitioning surgery on or providing medication to a minor under 18 years of age, and, in connection therewith, imposing liability on the healthcare provider that performed the procedure and any person who assisted until the minor is 48 years old or 10 years after their death; a healthcare provider is liable even if the minor and parent consented to the procedure; allowing any person to advise the state's attorney general of a prohibited procedure and requiring the attorney general to file a lawsuit against the provider and anyone that assisted for up to 20 years after the prohibited procedure occurred?

As set forth below, the Title Board erred in assuming jurisdiction over this measure and in its task of setting a clear ballot title.

I. The Title Board lacked jurisdiction to set titles.

A. This initiative contains multiple subjects.

This initiative purports to deal with only medical procedures (surgery and drugs) that change a person's sex assignment from the one assigned at the time of the person's birth. In fact, Initiative #175 goes a great deal further than that.

1. *Penalizing providers of health care, unrelated to gender affirming care procedures or medications.*

The tip-offs to the hidden-from-view breadth of this measure can be found in several places in the measure.

- “Health care provider” is defined to mean any “professional, establishment, or facility” that is licensed or permitted “**pursuant to this title**” (i.e., Title 12 of the Colorado Revised Statutes). Proposed Section 12-30-123(1)(b).
- The measure’s expanded regulatory provisions for professional “discipline pursuant to this title 12” apply whenever a covered person “**provides, prescribes, administers, or attempts a medical procedure**” that violates the measure. Proposed Section 12-30-123(9)(b).
- “Medical procedure” is defined to include “**prescribing, administering, or dispensing a drug or substance.**” Proposed Section 12-30-123(1)(d)(I).
- A medical procedure is prohibited if it “enabl[es] a minor to **identify with, or live as**” a person whose sex is “inconsistent with the minor’s sex.” Proposed Sections 12-30-123(2)(a)(I), (5)(a).
- A medical procedure is also prohibited if it “**treat[s]** purported **discomfort or distress** from a discordance between the minor’s sex and asserted identity.” Proposed Sections 12-30-123(2)(a)(II), (5)(b).
- Compensable injury includes “**a change to the... psychology** of an individual from a medical procedure... **irrespective of** whether the medical procedure was performed, provided, prescribed, administered, or attempted with the **intent to cause the change.**” Proposed Section 12-30-123(7)(b).

Thus, the goal of #175 isn’t just to limit physical changes to a minor. It aims to change how they “identify” or how they “live” and how certain professionals deliver the services they are licensed to provide. And this is not a hyper-technical reading of the initiative. This is what the substantive provisions state, as noted above, and those two provisions are restatements of the legislative declaration’s key contents:

- (2) Therefore, **it is the purpose** of this section to **prohibit medical procedures** from being administered to or performed on minors when the purpose of the medical procedure is to:
 - (a) Enable a minor to **identify with, or live as**, a purported identity **inconsistent with the minor’s sex**; or
 - (b) **Treat** purported **discomfort or distress from a discordance between the minor’s sex and asserted identity.**

Subsection 2 of Section 1 of Initiative #175.

Therefore, any medical professional who treats a minor-patient for, say, psychological concerns over that person's gender identity is subject to this measure. That means a health care provider who prescribes an antidepressant for someone assessing their gender identity is subject to the penalties and regulatory impositions of this measure. After all, such a prescription may enable a person to identify or live with a sex designation other than what is listed on their birth certificate. That same prescription may help "treat... discomfort or distress" for the inconsistency between identity and the gender assignment at birth.¹ Thus, it is not merely the administration of "a hormone or puberty blocker" that triggers this measure. Proposed Section 12-30-123(6). It is a wide variety of medicines that could be provided for very different purposes.

And it won't just be a minor's psychiatrist who is regulated by Article 240 of Title 12 ("Medical Practice"). The same is true for a psychiatric technician, regulated by Article 295 of Title 12, who can administer "selected treatments and selected medications prescribed by a licensed physician." C.R.S. §12-295-103(4). That person is also a "health care provider" under Initiative #175. So is the pharmacist, who also happens to be regulated under Article 280 of Title 12, who fills the prescription for antidepressants for that minor. C.R.S. §12-280-103(39). And so, too, is the "pharmacy technician" or "certificant," regulated under Article 280 of Title 12, as that person, too, provides services to the licensed pharmacist in order to make a prescription available to the patient. C.R.S. §§12-280-103(38), (38.5)(a). This is also true for a repackager of drugs, also regulated by Article 280 of Title 12. C.R.S. §12-280-103(46).

Also covered will be those persons who are the professionals who often get called in to help a person after a significant surgical procedure. For instance, any occupational therapist or physical therapist would work with someone who made the choice to access gender affirming care so they could "live as" the person they became. Both are regulated by Title 12 (Articles 270 and 285).

As noted above, "health care provider" is both the individual and the business that administers the "medical procedure." That means a hospital pharmacy, a hospital satellite pharmacy, a prescription drug outlet, and a telepharmacy outlet are all covered as facilities that are licensed under Title 12. C.R.S. §§12-280-103(10), (20), (43), (50).

Thus, if any of these drug dispensing professionals or entities fill a prescription for a minor who is experiencing this condition (who obtains gender affirming care before becoming 18 years of age), the pharmacies and pharmacists are liable under this measure. And each is liable "**irrespective** of whether the medical procedure was... provided, prescribed, [or] administered... attempted with **the intent to cause the change.**" Proposed Section 12-30-123(7)(b). Incredibly, civil liability and licensing discipline can be meted out without regard to the intent of these professionals and entities "to cause the change" at the time they provided their services.

¹ According to the American Journal of Psychiatry, transgender individuals in a recent study were found to "receive 3.4–3.9 times more prescriptions for antidepressants and anxiolytics than the general population, and even 10 years after gender-affirming surgeries, rates of mood and anxiety disorders remain elevated (21.1% for trans compared with 12.5% for cis people)." Mueller, S., *Mental Health Treatment Utilization in Transgender Persons: What We Know and What We Don't Know*, The American Journal of Psychiatry (Aug. 1, 2020) (last viewed March 11, 2024), <https://ajp.psychiatryonline.org/doi/10.1176/appi.ajp.2019.19111151>.

This purpose is both hidden and, in reading the plain terms of this measure, ominous. If passed, #175 will chill, among others, mental health professionals who might treat minors who are outside of the gender binary and keep those in the pharmacy world from preparing and delivering medications to help them deal with their current condition.

A tangential, contingent relationship between actual health care delivery professionals (who prescribe puberty blocking medications or who perform surgeries) and your local drug store is not sufficient to meet the single subject requirement – any more than changes to overarching animal cruelty laws and to specific livestock regulations was a single subject. A change like that “would modify the standard of care for all animals by criminalizing new conduct, regardless of whether that conduct is directed at livestock or other animals.” *In re Title, Ballot Title & Submission Clause for 2021-2022 #1*, 2021 CO 55, ¶39. Here, this initiative would affect all persons who prescribe or provide certain drugs, regardless of whether the medication was provided with an intent to provide gender affirming care for minors.

Like other measures the Title Board has considered, Initiative #175 “run[s] the risk of surprising voters with a surreptitious change, because voters may focus on one change and overlook the other.” *Id.*, ¶39 (citations and internal quotation marks omitted). Given the repetition of #175’s provisions identifying the measure’s purposes and illegal acts (including acts that fall well short of procedures constituting gender affirming care), this measure violates the single subject requirement.

2. *Liability for any person’s “support” of a minor who accesses gender affirming care.*

Initiative #175 creates liability for any “health care provider, person, or other entity that supported” a “medical procedure” for a minor that violates #175’s terms. Proposed Section 12-30-123(7)(a). “Health care provider” applies not just to the doctors and nurses Proponents mentioned to the Title Board. There are at least 23 different types of health care providers covered by Title 12 of the Colorado Revised Statutes that care for humans under Title 12.

Here, anyone who “supports” the minor’s treatment is at risk. *Id.* “Support” means “to agree with and give encouragement to someone or something because you want him, her, or it to succeed.” *Support*, The Cambridge Dictionary (online version) <https://dictionary.cambridge.org/dictionary/english/support> (last viewed March 11, 2024).

Nothing in #175 requires that, in order to be liable, a health care worker, for one, must participate in the actual gender affirming medical care provided. Persons who “support” a minor’s gender medical procedure, as that term is broadly defined, face the prospect of being a defendant in a lawsuit authorized by #175. That list of health care professions covered is a long one and includes the following people who may be part of the minor’s world (either in a professional or a personal capacity), and it includes professions that are – and others that aren’t – typically considered to be health care providers:

- An athletic trainer (regulated by Article 205 of Title 12);
- A chiropractor (regulated by Article 215 of Title 12);
- A dentist or dental hygienist (regulated by Article 220 of Title 12);
- A massage therapist (regulated by Article 235 of Title 12);
- A mental health professional (regulated by Article 245 of Title 12);
- An optometrist (regulated by Article 275 of Title 12);
- An acupuncturist (regulated by Article 200 of Title 12).

These are only some of the persons and entities that are regulated by Article 12. Each person could face a crippling lawsuit, thirty years from the time they “support” a person confronting a difficult situation, even if there was consent to gender affirming care by the parents and the minor.

In fact, the measure is structured so all-encompassing that it is not limited to support of minors by persons in health care industries. Proposed Section 12-30-123(7)(a) authorizes litigation against a “health-care provider, **person**, or other entity” and states that a parent can sue “a health care provider or **another person**” even if consent was provided. In the former phrase, “provider” is modified by “health care,” “entity” is modified by “other,” but “person” is not modified at all. In the latter, “provider” is modified by “health care,” but “person” is modified by “another.”

Particularly this second reference makes clear that a “person” who can be sued does not need to be involved in the health care industry. When a statute uses different modifiers for each of a string of covered acts or actors, each modifier is given unique effect, applying only to the one modified noun. *People v. Duncan*, 2023 COA 122, ¶13 (each word given effect in a statute identifying “several different types of injuries, each with a different modifier”), citing *People v. Daniels*, 240 P.3d 409, 412 (Colo. App. 2009). Given this clear rule of statutory construction which builds off of the general rule that a legislative body “meant what it clear said,” *id.*, citing *People v. Ryan*, 2022 COA 136, ¶ 39, “another person” could be anyone.

The point is that voters would never know that Initiative #175 creates potential liability for a health care worker or other person who gives a niece a ride to the drug store or to the doctor’s office. Or gives a grandson a comforting audience about troubling issues in his life. Or provides an emotional buffer when family and peers turn away or worse in the midst of a personal crisis.

The array of persons who are regulated by Title 12 is extraordinarily broad. Like the concern addressed above, this measure’s expansive liability is a concealed provision that creates another layer of consequence for an innocent act. And that would certainly surprise voters and violate the single subject requirement.

B. This initiative was written to conceal a key change to the law – the elimination of all common law doctrines relating to medical decision making – violating the single subject requirement.

Proposed Section 12-30-123(5)(a). Initiative #175 supersedes “**all common law rules** regarding a minor’s ability to consent to a medical procedure” for the purpose of:

- a. Enabling the minor to identify with, or live as, a purported identity inconsistent with the minor's sex; or
- b. Treating purported discomfort or distress from a discordance between the minor's sex and asserted identity.

To date, Proponents of #175 have been silent about the meaning of this provision. But at minimum, this measure prevents a person from claiming two common law doctrines: (1) emancipation; and (2) the mature minor doctrine. "Emancipation is an ancient common law doctrine based on Roman law." *Bird v. Nystrom*, Order on Motion in Limine, 2014 Colo. Dist. LEXIS 3392, *15 (Weld Cty. Dist. Ct.) (Case No. 2012CV521), citing W. Buckland, *A Text-Book of Roman Law from Augustus to Justinian* 131 (3rd ed 1963). This doctrine is a long-standing one in Colorado law, dating back at least to 1878. *Bird, supra*, at *15.

Likewise, "the common law doctrine of the 'mature minor'... recognize[s] that 'mature minors,' who may or may not be otherwise emancipated, may consent to their own medical treatment when the minor is sufficiently intelligent and mature enough to appreciate and understand the nature and consequences of the treatment." *Id.* at *20. This common law doctrine is "an avenue for the introduction of relevant evidence that (a minor) was emancipated for the purpose of making her own medical decisions." *Id.* at *21-22.

What other common law doctrines are superseded by Initiative #175? That's a good question. But neither the Title Board nor voters can know the answer because this measure was written using obscure references to hide key changes to the law. "The risk of uninformed voting caused by items concealed within a lengthy or complex proposal is what the single subject requirement seeks to avoid." *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1997-1998 #30*, 959 P.2d 822, 825 (Colo. 1998).

Even if Initiative #175 only suspends the emancipation doctrine and the mature minor doctrine, that change to the law is hidden from voters. Proponents do not get to use jargon (even legal jargon) to keep their changes out of plain view. Therefore, this violation of the single subject requirement is sufficient to require return of #175 to the Proponents.

C. The Title Board cannot set a title now for a measure that is not to be voted on until the 2026 general election.

Section 3 of the measure provides the effective date of the measure. "This initiative takes effect **if it is approved by the people at the next general election** and becomes law, and in such case, this takes effect upon the original declaration of the vote thereon by the governor."

The Title Board cannot set titles for measures in a future election cycle. If the Proponents want this measure to be considered by voters "at the next general election," they must wait until December of this year when the Board can consider such measures. C.R.S. § 1-40-106(1); *see In re Title, Ballot Title & Submission Clause, & Summary for # 26 Concerning Sch. Impact Fees*, 954 P.2d 586, 591 (Colo. 1998) (Board can only set title for the next election cycle after December of the current election cycle). Thus, the Board lacks jurisdiction to set titles for this measure now.

II. The title set by the Board is misleading to voters.

A. The title's single subject statement contains misleading references.

The single subject statement at the beginning of the title states that the measure “prohibit[s] a healthcare provider from performing gender transitioning surgery on or providing medication to a minor under 18 years of age.”

First, the reference to “providing medication to a minor under 18 years of age” is so broad that it could include any medication prescribed for any purpose. It applies to Tylenol used to remedy a headache. And as discussed above, the broad language used in the initiative makes it clear that the use of medications need not, by themselves, be the gender affirming care that is prohibited by the measure.

Second, the reference to “a minor under 18 years of age” is redundant. A minor is under 18 years of age. It would be more appropriate to say a “person under 18 years of age.”

B. The title's single subject statement contains a political catch phrase.

“Gender transitioning surgery” is a political catchphrase. It is not used as an operative term in the initiative.

As evidence of its uses only as a political motivator, one presidential candidate has promised to instruct every federal agency “to cease the promotion of sex or gender transition at any age.”² He also committed to using the Justice Department to look into whether hospitals and pharmaceutical companies use “sex transitions in order to get rich.”³ This political pitch has one purpose – to invigorate “his fervent base and the general electorate.”⁴ Therefore, the Title Board must refrain from using a phrase that is politically loaded and not even used in the measure.

C. The title fails to state that the measure will not be effective until sometime after the 2026 general election.

Section 3 of the measure provides the effective date of the measure. “This initiative takes effect if it is approved by the people **at the next general election** and becomes law, and in such case, this takes effect upon the original declaration **of the vote thereon** by the governor.”

² “Trump Says He’ll Ban Federal Government From Promoting Transgender Care at Any Age,” The Daily Beast (July 3, 2023); <https://www.thedailybeast.com/trump-says-hell-ban-federal-government-from-promoting-transgender-care-at-any-age> (last viewed March 11, 2024).

³ “Trump vows to 'stop' gender-affirming care for minors if re-elected president,” NBC News (Jan. 31, 2023) <https://www.nbcnews.com/politics/2024-election/trump-vows-stop-gender-affirming-care-minors-re-elected-president-rcna68461> (last viewed March 11, 2024).

⁴ D. Byer, “Trump is exploiting an anti-trans turn in public opinion,” Washington Post (Feb. 21, 2023) <https://www.washingtonpost.com/opinions/2023/02/21/trump-gender-lgbtq-identity/> (last viewed March 11, 2024).

If Initiative #175 were to make the 2024 ballot, “the next general election” would occur in November, 2026. The governor’s proclamation is typically issued at the end of the election year or in January of the follow year. Thus, by its terms, this measure will not take effect in 2024 or 2025. Voters should know that proponents crafted a time delay for the effective date so that they do not vote for it, thinking it would be immediately the law of the state.

WHEREFORE, Objectors seek appropriate relief in light of the above claims, including the striking of the titles set and return of Initiative #175 to Proponents for failure to comply with the single subject requirement of Article V, sec. 1(5.5) of the Colorado Constitution, or correction of the misleading ballot title set.

Respectfully submitted this 13th day of March, 2024.

RECHT KORNFELD, P.C.

s/ Mark G. Grueskin

Mark Grueskin

David Beller

Nate Bruggeman

1600 Stout Street, Suite 1400

Denver, CO 80202

Phone: 303-573-1900

Email: mark@rklawpc.com

david@rklawpc.com

nate@rklawpc.com

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2023-2024 #175** was sent this day, the 13th day of March, 2024, via first-class mail, postage paid to:

Wayde Goodall
14359 Eagle Villa Grove
Colorado Springs, CO 80921

Darcy Schoening
15843 Bridle Ridge Dr
Monument CO, 80132

s/ Nathan Bruggeman



Initiative 175

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Summary

Date: February 27, 2024

Fiscal Analyst: Kristine McLaughlin (303-866-4776)

LCS TITLE: PROHIBIT CERTAIN MEDICAL PROCEDURES FOR MINORS

Fiscal Summary of Initiative 175

This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at leg.colorado.gov/bluebook. This fiscal summary identifies the following impact.

State revenue. The measure may increase state revenue from additional civil filings fees and additional civil penalties collected by the state. The exact increase is unknown as it depends individuals' behavior and the number of resulting cases.

State expenditures. This measure will increase state spending by \$150,000 to hire additional Attorney General staff to receive and respond to complaints, as well as to develop a complaint reporting tool. In addition, workload for the professional boards in the Department of Regulatory Agencies (DORA) regulating medical professionals will increase to provide outreach and education, conduct investigations, hold hearings, and take disciplinary action against any violators of the measure. Workload will increase in the Judicial Department to the extent that additional civil cases are filled. Finally, to remain compliant with federal law, the Department of Health Care Policy and Financing (HCPF) may be required to transport patients out of state if procedures prohibited by the measure are considered medically necessary care under health care programs it operates.

Economic impacts. The measure will reduce spending on medical care in the state economy, and will potentially shift this spending either to other sectors of the state economy or to out-of-state medical providers.