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Colorado Secretary of State

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

In the Matter of the Title and Ballot Title and Submission Clause for Initiative
2015-2016 #145

MOTION FOR REHEARING

Registered electors, Robin Stephens and Renee Walbert, through their legal counsel Carrie Ann Lucas and Courtney Longtin of Disabled Parents Rights, request a rehearing of the Title Board for Initiative 2015-2016 No. 145. As set forth below, Ms. Stephens and Ms. Walbert respectfully object to the Title Board's setting of the title, and the ballot title and submission clause on the following grounds:

TITLE AND SUBMISSION CLAUSE

On April 20, 2016, the Title Board designated the title as follows:

A change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who 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.

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

Shall there be a change to the Colorado revised statutes to permit any mentally capable adult Colorado resident who 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?

GROUND FOR RECONSIDERATION

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

The Colorado Constitution and statutes require that each initiative that proposes an amendment to the Constitution shall contain only one subject and that subject shall be clearly expressed in the title. *See* Colo. Const. art. V., § 1(5.5); § 1-40-106.5 C.R.S.; *In re Title, Ballot Title, Submission Clause*, 974 P.2d 458, 463 (Colo. 1999) (a proposed initiative violates the single subject rule where it "has at least two distinct and separate purposes which are not dependent upon or connected with each other."). The Title Board must examine an initiative's central theme "to determine whether it contains incongruous or hidden purposes or bundles incongruous measures under a broad theme." *Gonzalez-Estay v. Lamm*, 138 P.3d 273, 279 (Colo. 2006). The Board set title for Initiative No. 145 despite the fact that it contains multiple, distinct and separate purposes that are not dependent upon or connected with one another. Specifically, the initiative includes the following several, unrelated subjects:

- A. Initiative # 145 explicitly changes several state laws, with multiple unintended effects:
 - 1. 30-10-606(1) – Which would require a coroner to lie on a death certificate and indicate the death was not a suicide;
 - 2. The “Colorado Medical Assistance Act” (Articles 4, 5 and 6 of Title 25.5 CRS – addressing financial assistance to needy families;
- B. Modifies many references in Colorado criminal code, Title 18, having to do with mercy killing, homicide or elder abuse, making it impossible to enforce unrelated statutes;
- C. Implicitly changes insurance laws and contracts;
- D. Implicitly changes coroner duties;
- E. Implicitly changes Colorado Medical Treatment Decision Act by creating new and conflicting definitions, as well as preventing some types of advance directives aimed at preventing the use of this proposed law;

- F. Implicitly changes title 27 with respect to care for people with mental illness;
- G. Implicitly changes probate code by prohibiting will and trust provisions;
- H. Implicitly changes employment contracts between medical providers and their employers.

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

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

- A. The Titles for Initiative #145 are misleading because they do not reference the true intent of the measure which is for physician assisted-suicide.
- B. The Titles for Initiative #145 are misleading because they do not reflect the true intent of the measure, which is for an individual to die by suicide.
- C. The Titles for Initiative #145 are misleading because they do not indicate that the cause of death on a death certificate will be anything other than suicide.
- D. The Titles for Initiative #145 are misleading because they do not inform voters that the terms of life insurance policies and wills will be altered.
- E. The Titles for Initiative #145 are misleading because the titles fail to accurately inform voters that a consultation with a mental health professional is not required by this statute for all individuals.
- F. The Titles for Initiative #145 are misleading because they fail to inform voters that self-administration as defined, will allow euthanasia.

WHEREFORE, Petitioners Robin Stephens and Renee Walbert respectfully request a rehearing and reconsideration of the title, ballot title and submission clause set by the Title Board on April 20, 2016, for Initiative 2015-2016 #145.

Respectfully submitted this 26th day of April, 2016.

DISABLED PARENTS RIGHTS



Carrie Ann Lucas, #36620

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Attorneys for Robin Stephens and Renee Walbert

Certificate of Service

I hereby certify that on April 26, 2016, a true and correct copy of the foregoing was served by electronic mail or by placing a true and correct copy in the United States Mail, postage prepaid and addressed to:

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