

SUPREME COURT OF COLORADO
2 East 14th Avenue
Denver, Colorado 80203

Original Proceeding
Pursuant to Colo. Rev. Stat. §1-40-107(2), (2023)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2023-
2024, #145 (“Establish Qualifications and
Registration for Veterinary Professional
Associate”)

Petitioners: WILL FRENCH and DIANE
MATT

v.

Respondents: APRYL STEELE and ALI
MICKELSON

and

Ballot Title Board: THERESA CONLEY,
CHRISTY CHASE, and KURT MORRISON

▲ COURT USE ONLY ▲

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Supreme Court Case No.
2024SA64

RESPONDENTS’ ANSWER BRIEF

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, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g).

The brief contains 747 words.

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/ Edward T. Ramey
Edward T. Ramey, #6748

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Respondents Apryl Steele and Ali Mickelson, the designated representatives of the proponents of Proposed Initiative 2023-2024 #145 (“Establish Qualifications and Registration for Veterinary Professional Associate”), respectfully submit their Answer Brief.

STATEMENT OF THE CASE

Respondents adopt and incorporate their Statement of the Case as presented in the Opening Brief.

SUMMARY OF THE ARGUMENT

Respondents adopt their Summary of the Argument as presented in their Opening Brief.

ARGUMENT

Respondents generally adopt their Argument as presented in their Opening Brief, though shuffling the three principal issues to the order now addressed in Petitioners’ Opening Brief. At the core of this argument is the statutory admonition that “Ballot titles shall be brief” – §1-40-106(3)(b), C.R.S. (2024) – and this Court’s guidance that “[t]he Board is not required in the titles . . . to restate the obvious or set forth every detail. The aim is to capture, in short form, the proposal in plain, understandable, accurate language enabling informed voter choice in pursuit of the initiative rights of Colorado citizens.” *In re Title, Ballot Title and*

Submission Clause, and Summary for 1997-1998 #62, 961 P.2d 1077, 1083 (Colo. 1996).

Petitioners' first complaint is that the title does not explicitly recite that the Colorado Veterinary Practice Act ("CVPA") would be amended to permit a person who has qualified as a "veterinary professional associate" to practice veterinary medicine *only* "within the veterinary professional associate's advanced education and experience." This is notwithstanding the clear recitals in the title that the initiative establishes "qualifications including a master's degree in veterinary clinical care or the equivalent" and only allows the veterinary professional associate to practice "under the supervision of a licensed veterinarian." Given the explicit (in the title) educational and supervisory prerequisites – and frankly even without those recitations – it would be an odd interpretation that veterinary professional associates would be permitted to practice *outside* their education and experience. Reciting that in the title assuredly restates the obvious.

Petitioners' second complaint is similar and equally odd. While the title clearly recites that a veterinary professional associate may only "practice veterinary medicine under the supervision of a licensed veterinarian," Petitioners insist that it must also recite that the licensed veterinarian must assure that the duties performed are within the veterinary professional associate's "training and

experience.” Though explicit in the text of the initiative itself, such logical detail need not be paraded through the title.

Finally, Petitioners complain that the title does not describe in detail the initiative’s accountability measures – specifically that both a veterinary professional associate and a supervising veterinarian may be disciplined and held liable for damages if they perform or delegate acts that exceed the veterinary professional associate’s training or experience. Recited as authority is an old ballot initiative case involving a proposed constitutional amendment impacting multiple facets of state government and election law, and containing a provision for “mandatory, nonsuspendable fines for willful campaign contribution and election protection provision violations.” *In re Title, Ballot Title and Submission Clause, and Summary Pertaining to Proposed Election Reform Amendment*, 852 P.2d 28, 33 (Colo. 1993). While the Court’s opinion does not elaborate upon its rationale for including this provision in the title, it may be presumed this was a new or expanded approach to enforcement in this arena.

By comparison, this Court in 2016 held that “[t]he omission of details regarding the remedies available [even under a newly created cause of action] does not obscure the intent of the measure” – noting that “the court’s function is not to write the best possible titles” and that it will reverse the Title Board’s chosen

language “*only if it is clearly inaccurate or misleading.*” *In re Title, Ballot Title & Submission Clause for 2015-2016 #63*, 2016 CO 34, §29, 370 P.3d 628, 635 (Colo. 2016) (emphasis added). Here, the newly created criminal penalty for non-registration by a veterinary professional associate *is* included in the title, while exposure to professional discipline and possible civil damage liability for practicing or supervising a practice of veterinary medicine beyond the practitioner’s education or experience level is neither new nor surprising; in fact, the opposite would be surprising, as well as a departure from current and widely understood standards for regulatory and civil liability. Per this Court’s 2016 guidance, there is nothing in the title that is “clearly inaccurate or misleading.”

CONCLUSION

For the reasons set forth above and in these Respondents’ and the Title Board’s Opening Briefs, Respondents respectfully renew their request to this Court to affirm the actions of the Title Board in this case.

Respectfully submitted this 8th day of April, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2024, I electronically filed this Answer Brief with this Court via the Colorado Courts E-Filing system and electronically served a copy upon Counsel for the Petitioners and Counsel for the Ballot Title Board at:

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