

<p>COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED: April 8, 2024 9:04 AM</p>
<p>Original Proceeding Pursuant to § 1-40-107(2), C.R.S. Appeal from the Ballot Title Board</p> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2023-2024 #145</p> <p>Petitioners: Will French and Diane Matt, v. Respondents: Apryl Steele and Ali Mickelson, and Title Board: Theresa Conley, Christy Chase, and Kurt Morrison</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No. 2024SA64</p>
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<p>THE TITLE BOARD'S ANSWER 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, I certify 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 839 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/ Emily Olive Monnett

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REPLY ARGUMENT

Proposed Initiative 2023-2024 #145 is an easily understood measure that would create a new veterinary professional associate profession in Colorado. The title strikes an appropriate balance in length and complexity and explains the core features of #145, without unnecessarily explaining every detail. Petitioners' clear title objections are without merit and do not warrant reversal of the title set by the Board.

I. The Board acted within its discretion in describing the limitations on a VPA's practice of veterinary medicine.

Petitioners' primary contention is that the title is incomplete and misleading for not including every limitation on a VPA's practice of veterinary medicine.

First, Petitioners argue that the title is incomplete and misleading for not explaining that a VPA is limited to practicing veterinary medicine within the scope of their training and experience. Petitioners frame this as a "second limitation" on a VPA's ability to practice

veterinary medicine. In reality, this “limitation” follows naturally from the education and licensure requirements detailed in the title. It is not an essential feature of the measure, as Petitioners argue. It is expected that a veterinary professional associate would only be able to perform duties that they have the necessary training and experience for, like medical professionals. The Board appropriately concluded that including that a veterinary professional associate can only practice veterinary medicine within the scope of their training and experience was “too much detail.”

Petitioners’ reliance on *In Re Title, Ballot Title and Submission Clause, and Summary Pertaining to Proposed Election Reform Amendment*, 852 P.2d 28 (Colo. 1993) for their position is misplaced. In that case, the Title Board had the “herculean task” of setting the title for a 1696-word proposed constitutional amendment that would substantially reform the state’s election laws. *Id.* at 32. The Court disagreed with the petitioners that the title was incomplete for not including three additional provisions from the measure, noting that “the

Board is not required to...describe every feature of a proposed measure in the titles.” *Id.* at 34.

The Court agreed with the petitioners on one issue and determined that it was necessary to include the “proposal’s establishment of mandatory, nonsuspendable fines for willful campaign contribution and election protection provision violations.” *Id.* at 33. The Court found that “[i]n the case of a complex measure embracing many different topics like the proposal now before us, the titles and summary cannot be abbreviated by omitting references to the measure’s salient features.” *Id.* at 32.

Here, the title as written contains #145’s salient features. The requirement that VPAs only practice veterinary medicine within their training and experience is not the same as the establishment of mandatory, nonsuspendable fines like the *Proposed Election Reform Amendment* case and does not need to be included to make the title complete.

Second, Petitioners argue that the title does not accurately describe the requirement for licensed veterinarian to supervise a VPA because it does not explain that a veterinarian may only delegate tasks that the VPA has the necessary training and experience to perform. For the same reasons that the title is not incomplete for not stating that veterinary professional associates can only practice within the scope of their training and experience, this omission does not make the title misleading or inaccurate. It is not a salient feature of the measure and follows naturally from the central requirement that a licensed veterinarian supervise a VPA.

II. The accountability measures contained within the Initiative are implementation details that need not be explained in the title.

Petitioners' final argument fails to overcome the Board's broad discretion to set a clear, brief title. *See In re 2019-2020 #315*, 2020 CO 6, ¶ 26 ("The Title Board is given discretion in resolving interrelated problems of length, complexity, and clarity . . ."). Petitioners claim that the title is incomplete for failing to include "accountability measures"

within the Initiative for VPAs or supervising veterinarians that violate their duties.

The accountability measures are not a salient feature of the Initiative. Instead, the accountability measures are implementation details that follow naturally from the licensure process for VPAs. If a new type of license is created, it is expected that there would be enforcement mechanisms or sanctions for violating the terms of the license. Contrary to Petitioners' assertion, the Board does not need to outline all accountability measures to craft a complete title.

Petitioners' reliance on *In Re Title, Ballot Title and Submission Clause, and Summary Pertaining to Proposed Election Reform Amendment*, 852 P.2d 28 (Colo. 1993) is, again, misplaced. The Court concluded that mandatory, nonsuspendable fines for campaign violations needed to be included in the title, not that accountability measures generally should be included in a title, as Petitioner argues.

Here, the Board struck an appropriate balance with the length, complexity, and clarity in setting the title for Initiative #145 and

appropriately outlined the central features of the provision, without including the accountability measures.

CONCLUSION

The Court should affirm the title set by the Title Board for 2023-2024 #145

Respectfully submitted on this 8th day of April, 2024.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S OPENING BRIEF** upon the following parties electronically via CCEF this 8th day of April, 2024, addressed as follows:

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