

CHAPTER 107

PROBATE, TRUSTS, AND FIDUCIARIES

HOUSE BILL 09-1260

BY REPRESENTATIVE(S) Ferrandino, Apuan, Benefield, Carroll T., Casso, Court, Fischer, Frangas, Green, Hullinghorst, Judd, Kefalas, Kerr A., Labuda, Levy, McCann, McGihon, Merrifield, Middleton, Miklosi, Primavera, Ryden, Scanlan, Schafer S., Todd, Weissmann, Peniston, Riesberg;
also SENATOR(S) Veiga, Bacon, Boyd, Foster, Gibbs, Groff, Heath, Hodge, Hudak, Morse, Newell, Romer, Sandoval, Shaffer B., Tapia, Williams.

AN ACT**CONCERNING DESIGNATED BENEFICIARY AGREEMENTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 15, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 22
Designated Beneficiary Agreements

15-22-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT".

15-22-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

(a) NOT ALL COLORADANS ARE ADEQUATELY PROTECTED BY THE PROVISIONS OF THE "COLORADO PROBATE CODE", ARTICLES 10 TO 17 OF THIS TITLE, AND OTHER PROVISIONS OF COLORADO LAW. CURRENT STATE AND FEDERAL LAWS PRESENT IMPEDIMENTS AND DISINCENTIVES FOR PEOPLE WISHING TO AVAIL THEMSELVES OF THE PROTECTIONS OF THIS TITLE.

(b) BEYOND LEGAL IMPEDIMENTS, PEOPLE OFTEN FAIL TO PLAN FOR THEIR OWN MORTALITY. STUDIES HAVE FOUND THAT SIGNIFICANT NUMBERS OF AMERICANS DO NOT HAVE A VALID WILL, AND EVEN FEWER HAVE EXECUTED POWERS OF ATTORNEY OR OTHER ESTATE PLANNING DOCUMENTS.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) A BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT IN SITUATIONS IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS. HOWEVER, FAILURE TO PLAN FOR DISABILITY, INCAPACITY, OR DEATH PLACES PEOPLE AT THE MERCY OF STATE LAWS THAT MAY VEST THE POWER TO ACT IN SUCH SITUATIONS IN PERSONS OTHER THAN THOSE THEY WOULD WISH TO HAVE EXERCISE THOSE POWERS. MANY LACK ACCESS TO LEGAL SERVICES DUE TO THE EXPENSE OF DRAFTING LEGAL INSTRUMENTS AND THE NECESSITY TO KEEP THESE DOCUMENTS CURRENT.

(d) THE POWER OF INDIVIDUALS TO CARE FOR ONE ANOTHER AND TAKE ACTION TO BE PERSONALLY RESPONSIBLE FOR THEMSELVES AND THEIR LOVED ONES IS OF TREMENDOUS SOCIETAL BENEFIT, ENABLING SELF-DETERMINATION AND REDUCING RELIANCE ON PUBLIC PROGRAMS AND SERVICES.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

(a) THE PUBLIC POLICY OF THE STATE SHOULD ENCOURAGE RESIDENTS TO EXECUTE APPROPRIATE LEGAL DOCUMENTS TO EFFECTUATE THEIR WISHES;

(b) THE PURPOSES OF THIS ARTICLE ARE TO:

(I) MAKE EXISTING LAWS RELATING TO HEALTH CARE, MEDICAL EMERGENCIES, INCAPACITY, DEATH, AND ADMINISTRATION OF DECEDENT'S ESTATES AVAILABLE TO MORE PERSONS THROUGH A PROCESS OF DOCUMENTING DESIGNATED BENEFICIARY AGREEMENTS; AND

(II) ALLOW INDIVIDUALS TO ELECT TO HAVE CERTAIN DEFAULT PROVISIONS IN STATE STATUTES PROVIDE RIGHTS, BENEFITS, AND PROTECTIONS TO A DESIGNATED BENEFICIARY IN SITUATIONS IN WHICH NO VALID AND ENFORCEABLE ESTATE PLANNING DOCUMENTS EXIST.

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS ARTICLE BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES STATED IN THIS ARTICLE.

15-22-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DESIGNATED BENEFICIARY" MEANS A PERSON WHO HAS ENTERED INTO A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO THIS ARTICLE.

(2) "DESIGNATED BENEFICIARY AGREEMENT" MEANS AN AGREEMENT THAT IS ENTERED INTO PURSUANT TO THIS ARTICLE BY TWO PEOPLE FOR THE PURPOSE OF DESIGNATING EACH PERSON AS THE BENEFICIARY OF THE OTHER PERSON AND FOR THE PURPOSE OF ENSURING THAT EACH PERSON HAS CERTAIN RIGHTS AND FINANCIAL PROTECTIONS BASED UPON THE DESIGNATION.

(3) "SUPERSEDING LEGAL DOCUMENT" MEANS A LEGAL DOCUMENT, REGARDLESS OF THE DATE OF EXECUTION, THAT IS VALID AND ENFORCEABLE AND CONFLICTS WITH ALL OR A PORTION OF A DESIGNATED BENEFICIARY AGREEMENT AND, THEREFORE, CAUSES THE DESIGNATED BENEFICIARY AGREEMENT IN WHOLE OR IN PART TO BE REPLACED OR SET ASIDE. TO THE EXTENT THERE IS A CONFLICT BETWEEN A

SUPERSEDING LEGAL DOCUMENT AND A DESIGNATED BENEFICIARY AGREEMENT, THE SUPERSEDING LEGAL DOCUMENT CONTROLS. A SUPERSEDING LEGAL DOCUMENT MAY INCLUDE, BUT NEED NOT BE LIMITED TO, ANY OF THE FOLLOWING:

- (a) A WILL;
- (b) A CODICIL;
- (c) A POWER OF ATTORNEY;
- (d) A MEDICAL DURABLE POWER OF ATTORNEY;
- (e) A TRUST INSTRUMENT;
- (f) A BENEFICIARY DESIGNATION IN AN INSURANCE POLICY OR POLICY OF HEALTH CARE COVERAGE;
- (g) A BENEFICIARY DESIGNATION IN A RETIREMENT OR PENSION PLAN;
- (h) A BENEFICIARY DESIGNATION FOR A DEPOSIT OR ACCOUNT, INCLUDING BUT NOT LIMITED TO DEMAND, SAVINGS, AND TIME DEPOSIT ACCOUNTS;
- (i) A DECLARATION AS TO MEDICAL TREATMENT EXECUTED PURSUANT TO ARTICLE 18 OF THIS TITLE;
- (j) A DECLARATION AS TO DISPOSITION OF LAST REMAINS EXECUTED PURSUANT TO ARTICLE 19 OF THIS TITLE; OR
- (k) A MARRIAGE LICENSE.

15-22-104. Requirements for a valid designated beneficiary agreement.

(1) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE LEGALLY RECOGNIZED IF:

(a) THE PARTIES TO THE DESIGNATED BENEFICIARY AGREEMENT SATISFY ALL OF THE FOLLOWING CRITERIA:

- (I) BOTH ARE AT LEAST EIGHTEEN YEARS OF AGE;
- (II) BOTH ARE COMPETENT TO ENTER INTO A CONTRACT;
- (III) NEITHER PARTY IS MARRIED TO ANOTHER PERSON;
- (IV) NEITHER PARTY IS A PARTY TO ANOTHER DESIGNATED BENEFICIARY AGREEMENT; AND
- (V) BOTH PARTIES ENTER INTO THE DESIGNATED BENEFICIARY AGREEMENT WITHOUT FORCE, FRAUD, OR DURESS; AND

(b) THE AGREEMENT IS IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN THIS ARTICLE. FOR PURPOSES OF THIS ARTICLE, "SUBSTANTIAL COMPLIANCE" SHALL MEAN THAT THE AGREEMENT INCLUDES THE DISCLAIMER

CONTAINED IN SECTION 15-22-106, THE INSTRUCTIONS AND HEADINGS ABOUT HOW TO GRANT OR WITHHOLD A RIGHT OR PROTECTION, THE STATEMENTS ABOUT THE EFFECTIVE DATE OF THE AGREEMENT AND HOW TO RECORD THE AGREEMENT, THE SIGNATURES FOR THE TWO PARTIES, AND THE ACKNOWLEDGMENTS FOR THE NOTARY PUBLIC.

(2) A DESIGNATED BENEFICIARY AGREEMENT IS LEGALLY SUFFICIENT UNDER THIS ARTICLE IF:

(a) THE WORDING OF THE DESIGNATED BENEFICIARY AGREEMENT COMPLIES SUBSTANTIALLY WITH THE STANDARD FORM SET FORTH IN SECTION 15-22-106 (1) AND THE FORM IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 30-10-406 (3), C.R.S.;

(b) THE DESIGNATED BENEFICIARY AGREEMENT IS PROPERLY COMPLETED AND SIGNED;

(c) THE DESIGNATED BENEFICIARY AGREEMENT IS ACKNOWLEDGED; AND

(d) THE DESIGNATED BENEFICIARY AGREEMENT IS RECORDED WITH A COUNTY CLERK AND RECORDER AS PROVIDED IN SECTION 15-22-107.

15-22-105. Effects and applicability of a designated beneficiary agreement.

(1) A PERSON NAMED AS A DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT SHALL BE ENTITLED TO EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN THE AGREEMENT BY VIRTUE OF HAVING BEEN SO NAMED.

(2) A DESIGNATED BENEFICIARY AGREEMENT THAT IS PROPERLY EXECUTED AND RECORDED AS PROVIDED IN SECTION 15-22-104 (2) SHALL BE VALID AND LEGALLY ENFORCEABLE IN THE ABSENCE OF A SUPERSEDING LEGAL DOCUMENT THAT CONFLICTS WITH THE PROVISIONS SPECIFIED IN THE DESIGNATED BENEFICIARY AGREEMENT.

(3) A DESIGNATED BENEFICIARY AGREEMENT SHALL ENTITLE THE PARTIES TO EXERCISE THE FOLLOWING RIGHTS AND ENJOY THE FOLLOWING PROTECTIONS, UNLESS SPECIFICALLY EXCLUDED FROM THE DESIGNATED BENEFICIARY AGREEMENT:

(a) THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN JOINTLY, OR TRANSFER INTER VIVOS OR AT DEATH REAL OR PERSONAL PROPERTY AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP OR AS TENANTS IN COMMON;

(b) THE RIGHT TO BE DESIGNATED AS A BENEFICIARY, PAYEE, OR OWNER AS A TRUSTEE NAMED IN AN INTER VIVOS OR TESTAMENTARY TRUST FOR THE PURPOSES OF A NONPROBATE TRANSFER ON DEATH;

(c) FOR PURPOSES OF THE FOLLOWING BENEFITS, THE RIGHT TO BE DESIGNATED AS A BENEFICIARY AND RECOGNIZED AS A DEPENDENT SO LONG AS NOTICE IS GIVEN IN ACCORDANCE WITH ANY APPLICABLE STATUTE, RULE, CONTRACT, POLICY, PROCEDURE, OR OTHER GOVERNMENT DOCUMENT OF THE FOLLOWING BENEFITS:

(I) PUBLIC EMPLOYEES' RETIREMENT SYSTEMS PURSUANT TO ARTICLES 51 TO 54.6

OF TITLE 24, C.R.S.;

(II) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS;

(III) INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE; AND

(IV) HEALTH INSURANCE POLICIES OR HEALTH COVERAGE IF THE EMPLOYER OF THE DESIGNATED BENEFICIARY ELECTS TO PROVIDE COVERAGE FOR DESIGNATED BENEFICIARIES AS DEPENDENTS;

(d) THE RIGHT TO PETITION FOR AND HAVE PRIORITY FOR APPOINTMENT AS A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE FOR THE OTHER DESIGNATED BENEFICIARY;

(e) THE RIGHT TO VISITATION BY THE OTHER DESIGNATED BENEFICIARY IN A HOSPITAL, NURSING HOME, HOSPICE, OR SIMILAR HEALTH CARE FACILITY IN WHICH A PARTY TO A DESIGNATED BENEFICIARY RESIDES OR IS RECEIVING CARE, INCLUDING THE RIGHT TO INITIATE A FORMAL COMPLAINT ALLEGING A VIOLATION OF THE RIGHTS OF NURSING HOME PATIENTS SPECIFIED IN SECTION 25-1-120, C.R.S.;

(f) THE RIGHT TO ACT AS A PROXY DECISION-MAKER OR SURROGATE DECISION-MAKER TO MAKE MEDICAL TREATMENT DECISIONS FOR THE OTHER DESIGNATED BENEFICIARY AS IF SELECTED PURSUANT TO SECTION 15-18.5-103 OR 15-18.5-104;

(g) THE RIGHT TO RECEIVE NOTICE OF THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES FOR THE OTHER DESIGNATED BENEFICIARY PURSUANT TO SECTION 15-18-107 AND THE RIGHT TO CHALLENGE THE VALIDITY OF A DECLARATION AS TO MEDICAL OR SURGICAL TREATMENT OF THE OTHER DESIGNATED BENEFICIARY PURSUANT TO SECTION 15-18-107;

(h) THE RIGHT, WITH RESPECT TO THE OTHER DESIGNATED BENEFICIARY, TO ACT AS AN AGENT AND TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS PURSUANT TO THE "REVISED UNIFORM ANATOMICAL GIFT ACT", PART 1 OF ARTICLE 34 OF TITLE 12, C.R.S.;

(i) THE RIGHT TO INHERIT REAL OR PERSONAL PROPERTY FROM THE OTHER DESIGNATED BENEFICIARY THROUGH INTESTATE SUCCESSION;

(j) THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS PURSUANT TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S., MADE ON BEHALF OF THE OTHER DESIGNATED BENEFICIARY;

(k) THE RIGHT TO HAVE STANDING TO SUE FOR WRONGFUL DEATH ON BEHALF OF THE OTHER DESIGNATED BENEFICIARY; AND

(l) THE RIGHT TO DIRECT THE DISPOSITION OF THE OTHER DESIGNATED BENEFICIARY'S LAST REMAINS PURSUANT TO ARTICLE 19 OF THIS TITLE.

(4) THIS ARTICLE SHALL NOT BE CONSTRUED TO CREATE ANY RIGHTS, PROTECTIONS, OR RESPONSIBILITIES FOR DESIGNATED BENEFICIARIES THAT ARE NOT

SPECIFICALLY ENUMERATED IN THE DESIGNATED BENEFICIARY AGREEMENT AS AUTHORIZED IN THIS ARTICLE.

(5) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE EVIDENCE OF A PARTY'S INTENT TO FORM A COMMON LAW MARRIAGE.

(6) EXECUTION OF A DESIGNATED BENEFICIARY AGREEMENT SHALL IN NO WAY IMPEDE THE ABILITY OF INDIVIDUALS TO MAKE SPECIFIC DETERMINATIONS AS TO ANY OR ALL OF THE MATTERS SPECIFIED IN THIS ARTICLE BY ACTING THROUGH SUPERSEDING LEGAL DOCUMENTS OR OTHER CONTRACTS OR INSTRUMENTS.

(7) IN THE EVENT THAT A SUPERSEDING LEGAL DOCUMENT IS FOUND TO BE INVALID OR UNENFORCEABLE, THE DESIGNATED BENEFICIARY AGREEMENT SHALL CONTROL DESPITE THE ATTEMPT TO SUPERSEDE ITS PROVISIONS.

15-22-106. Statutory form of a designated beneficiary agreement. (1) THE FOLLOWING STATUTORY FORM SHALL BE THE STANDARD FORM FOR A DESIGNATED BENEFICIARY AGREEMENT:

DESIGNATED BENEFICIARY AGREEMENT

DISCLAIMER

WARNING: WHILE THIS DOCUMENT MAY INDICATE YOUR WISHES CERTAIN ADDITIONAL DOCUMENTS MAY BE NEEDED TO PROTECT THESE RIGHTS.

THIS DESIGNATED BENEFICIARY AGREEMENT IS OPERATIVE IN THE ABSENCE OF OTHER ESTATE PLANNING DOCUMENTS AND WILL BE SUPERSEDED AND SET ASIDE TO THE EXTENT IT CONFLICTS WITH VALID INSTRUMENTS SUCH AS A WILL POWER OF ATTORNEY OR BENEFICIARY DESIGNATION ON AN INSURANCE POLICY OR PENSION PLAN. THIS DESIGNATED BENEFICIARY AGREEMENT IS SUPERSEDED BY SUCH OTHER DOCUMENTS AND DOES NOT CAUSE ANY CHANGES TO BE MADE TO THOSE DOCUMENTS OR DESIGNATIONS. THE PARTIES UNDERSTAND THAT EXECUTING AND SIGNING THIS AGREEMENT IS NOT SUFFICIENT TO DESIGNATE THE OTHER PARTY FOR PURPOSES OF ANY INSURANCE POLICY PENSION PLAN PAYABLE UPON DEATH DESIGNATION OR MANNER IN WHICH TITLE TO PROPERTY IS HELD AND THAT ADDITIONAL ACTION WILL BE REQUIRED TO MAKE OR CHANGE SUCH DESIGNATIONS. THE PARTIES UNDERSTAND THAT THIS DESIGNATED BENEFICIARY AGREEMENT MAY BE ONE COMPONENT OF ESTATE PLANNING INSTRUCTIONS AND THAT THEY ARE ENCOURAGED TO CONSULT AN ATTORNEY TO ENSURE THEIR ESTATE PLANNING WISHES ARE ACCOMPLISHED.

We, _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO AS PARTY A, AND _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO AS PARTY B, HEREBY DESIGNATE EACH OTHER AS THE OTHER'S DESIGNATED BENEFICIARY WITH THE FOLLOWING RIGHTS AND PROTECTIONS, GRANTED OR

WITHHELD AS INDICATED BY OUR INITIALS:

TO GRANT ONE OR MORE OF THE RIGHTS OR PROTECTIONS SPECIFIED IN THIS FORM, INITIAL THE LINE TO THE LEFT OF EACH RIGHT OR PROTECTION YOU ARE GRANTING. TO WITHHOLD A RIGHT OR PROTECTION, INITIAL THE LINE TO THE RIGHT OF EACH RIGHT OR PROTECTION YOU ARE WITHHOLDING.

TO GRANT A RIGHT OR PROTECTION INITIAL

TO WITHHOLD A RIGHT OR PROTECTION INITIAL

PARTY A PARTY B

PARTY A PARTY B

___	___	THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN JOINTLY, OR TRANSFER INTER VIVOS OR AT DEATH REAL OR PERSONAL PROPERTY AS A JOINT TENANT WITH ME WITH RIGHT OF SURVIVORSHIP OR AS A TENANT IN COMMON WITH ME;	___	___
___	___	THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY, PAYEE, OR OWNER AS A TRUSTEE NAMED IN AN INTER VIVOS OR TESTAMENTARY TRUST FOR THE PURPOSES OF A NONPROBATE TRANSFER ON DEATH;	___	___
___	___	THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY AND RECOGNIZED AS A DEPENDENT IN AN INSURANCE POLICY FOR LIFE INSURANCE;	___	___
___	___	THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY AND RECOGNIZED AS A DEPENDENT IN A HEALTH INSURANCE POLICY IF MY EMPLOYER ELECTS TO PROVIDE HEALTH INSURANCE COVERAGE FOR DESIGNATED BENEFICIARIES;	___	___
___	___	THE RIGHT TO BE DESIGNATED BY ME AS A BENEFICIARY IN A RETIREMENT OR PENSION PLAN;	___	___
___	___	THE RIGHT TO PETITION FOR AND HAVE PRIORITY FOR APPOINTMENT AS A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE FOR ME;	___	___
___	___	THE RIGHT TO VISIT ME IN A HOSPITAL, NURSING HOME, HOSPICE, OR SIMILAR HEALTHCARE FACILITY IN WHICH A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT RESIDES OR IS RECEIVING CARE;	___	___
___	___	THE RIGHT TO INITIATE A FORMAL COMPLAINT REGARDING ALLEGED VIOLATIONS OF MY RIGHTS AS A NURSING HOME PATIENT AS PROVIDED IN SECTION 25-1-120, COLORADO REVISED STATUTES;	___	___
___	___	THE RIGHT TO ACT AS A PROXY DECISION-MAKER OR SURROGATE DECISION-MAKER TO MAKE MEDICAL CARE DECISIONS FOR ME PURSUANT TO SECTION 15-18.5-103 OR 15-18.5-104, COLORADO REVISED STATUTES;	___	___
___	___	THE RIGHT TO NOTICE OF THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES FOR ME PURSUANT TO SECTION 15-18-107, COLORADO	___	___

REVISED STATUTES;

THE RIGHT TO CHALLENGE THE VALIDITY OF A DECLARATION AS TO MEDICAL OR SURGICAL TREATMENT OF ME PURSUANT TO SECTION 15-18-107, COLORADO REVISED STATUTES;

THE RIGHT TO ACT AS MY AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS INVOLVING MY PERSON PURSUANT TO THE "REVISED UNIFORM ANATOMICAL GIFT ACT", PART 1 OF ARTICLE 34 OF TITLE 12, COLORADO REVISED STATUTES;

THE RIGHT TO INHERIT REAL OR PERSONAL PROPERTY FROM ME THROUGH INTESTATE SUCCESSION;

THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS PURSUANT TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLE 40 OF TITLE 8, COLORADO REVISED STATUTES, IN THE EVENT OF MY DEATH ON THE JOB;

THE RIGHT TO HAVE STANDING TO SUE FOR WRONGFUL DEATH IN THE EVENT OF MY DEATH; AND

THE RIGHT TO DIRECT THE DISPOSITION OF MY LAST REMAINS PURSUANT TO ARTICLE 19 OF TITLE 15, COLORADO REVISED STATUTES.

THIS DESIGNATED BENEFICIARY AGREEMENT IS EFFECTIVE WHEN RECEIVED FOR RECORDING BY THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH ONE OF THE DESIGNATED BENEFICIARIES RESIDES. THIS DESIGNATED BENEFICIARY AGREEMENT WILL CONTINUE IN EFFECT UNTIL ONE OF THE DESIGNATED BENEFICIARIES REVOKES THIS AGREEMENT BY RECORDING A REVOCATION OF DESIGNATED BENEFICIARY FORM WITH THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THIS AGREEMENT WAS RECORDED OR UNTIL THIS AGREEMENT IS SUPERSEDED IN PART OR IN WHOLE BY A SUPERSEDING LEGAL DOCUMENT.

SIGNATURE OF DESIGNATED BENEFICIARY

SIGNATURE OF DESIGNATED BENEFICIARY

STATE OF COLORADO

COUNTY OF _____

THIS DOCUMENT WAS SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED BEFORE ME ON _____ DATE

BY

MY COMMISSION EXPIRES _____

[SEAL]

NOTARY PUBLIC

(2) THE INSTRUCTIONS TO EACH PARTY REGARDING HOW TO GRANT OR WITHHOLD A RIGHT OR PROTECTION BY INITIALING AND THE WORDS "PARTY A" AND "PARTY B" SHALL APPEAR AT THE TOP OF EACH PAGE OF THE STATUTORY FORM ABOVE THE COLUMNS FOR THE INITIALS OF THE DESIGNATED BENEFICIARIES.

(3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED TO EXTEND ALL OF THE RIGHTS AND PROTECTIONS LISTED IN THE STATUTORY FORM UNLESS THE PARTIES TO THE AGREEMENT EXPLICITLY EXCLUDE A RIGHT OR PROTECTION.

(4) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT MAY LIMIT THE SCOPE OF A DESIGNATED BENEFICIARY AGREEMENT BY THE TERMS OF THE AGREEMENT OR BY EXECUTING A SUPERSEDING LEGAL DOCUMENT THAT CONTROLS AND SUPERSEDES PART OR ALL OF THE DESIGNATED BENEFICIARY AGREEMENT.

15-22-107. Recording - duties of the county clerk and recorder - fee. (1) A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY AGREEMENT SHALL BE RECORDED WITH THE COUNTY CLERK AND RECORDER IN THE COUNTY IN WHICH ONE OF THE PARTIES RESIDES. THE DESIGNATED BENEFICIARY AGREEMENT SHALL BE EFFECTIVE AS OF THE DATE AND TIME AS RECEIVED FOR RECORDING BY THE COUNTY CLERK AND RECORDER. THE COUNTY CLERK AND RECORDER SHALL ASSESS A RECORDING FEE FOR RECORDING THE DESIGNATED BENEFICIARY AGREEMENT IN THAT COUNTY, A FEE FOR ISSUING TWO CERTIFIED COPIES OF THE DESIGNATED BENEFICIARY AGREEMENT THAT INDICATE THE DATE AND TIME OF RECORDING WITH THE COUNTY, AND A FEE FOR TAKING ACKNOWLEDGMENTS, IF APPLICABLE, AS PROVIDED IN SECTION 30-1-103, C.R.S. ALL FEES COLLECTED BY THE COUNTY CLERK AND RECORDER SHALL BE DEPOSITED IN THE COUNTY CLERK'S FEE FUND MAINTAINED AS REQUIRED IN SECTION 30-1-119, C.R.S. THE COUNTY CLERK AND RECORDER MAY REQUIRE THE PERSON RECORDING THE DESIGNATED BENEFICIARY AGREEMENT TO INDICATE THE MAILING ADDRESS TO WHICH THE ORIGINAL DOCUMENT SHOULD BE RETURNED AFTER RECORDING.

(2) THE CLERK AND RECORDER OF THE COUNTY IS ENCOURAGED TO MAKE AVAILABLE COPIES OF THE STATUTORY FORMS AS PRESCRIBED IN SECTIONS 15-22-106 AND 15-22-111.

(3) THE CLERK AND RECORDER OF THE COUNTY SHALL HAVE THE FOLLOWING DUTIES:

(a) TO INDICATE ON THE DESIGNATED BENEFICIARY AGREEMENT OR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT THE DATE AND TIME THAT IT IS RECORDED WITH THE CLERK AND RECORDER;

(b) TO ISSUE TWO CERTIFIED COPIES OF THE RECORDED DESIGNATED BENEFICIARY AGREEMENT THAT INDICATE THE DATE AND TIME OF THE RECORDING;

(c) TO ISSUE REPLACEMENT CERTIFIED COPIES OF A DESIGNATED BENEFICIARY AGREEMENT OR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT UPON PAYMENT OF A REPLACEMENT FEE.

(4) DESIGNATED BENEFICIARY AGREEMENTS AND REVOCATIONS OF DESIGNATED BENEFICIARY AGREEMENTS SHALL BE CONSIDERED OPEN RECORDS FOR PURPOSES OF

PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

15-22-108. Designated beneficiary agreement - effect on other legal documents. EXECUTION OF A DESIGNATED BENEFICIARY AGREEMENT SHALL NOT CONSTITUTE EVIDENCE OF AN INTENT TO REVOKE A PRIOR WILL OR CODICIL NOR SHALL IT AFFECT ANY BENEFICIARY DESIGNATION, TRANSFER, OR BEQUEST CONTAINED IN ANY OTHER LEGAL DOCUMENTS.

15-22-109. Affirmation of validity of designated beneficiary agreement. A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

15-22-110. Reliance - immunity. A THIRD PARTY WHO ACTS IN GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

15-22-111. Revocation of a designated beneficiary agreement. (1) A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN RECORDED WITH A COUNTY CLERK AND RECORDER MAY BE UNILATERALLY REVOKED BY EITHER PARTY TO THE AGREEMENT BY RECORDING A REVOCATION WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE AGREEMENT WAS RECORDED. A REVOCATION SHALL BE DATED, SIGNED, AND ACKNOWLEDGED. THE REVOCATION SHALL BE EFFECTIVE ON THE DATE AND TIME THE REVOCATION IS RECEIVED FOR RECORDING BY THE COUNTY CLERK AND RECORDER. THE CLERK AND RECORDER SHALL ISSUE A CERTIFIED COPY TO THE PARTY RECORDING THE REVOCATION AND SHALL MAIL A CERTIFIED COPY OF THE REVOCATION TO THE LAST-KNOWN ADDRESS OF THE OTHER PARTY TO THE DESIGNATED BENEFICIARY AGREEMENT.

(2) THE COUNTY CLERK AND RECORDER SHALL ASSESS FEES, AS PROVIDED IN SECTION 30-1-103, C.R.S., FOR RECORDING A REVOCATION AGREEMENT AND ISSUING TWO CERTIFIED COPIES OF THE REVOCATION AGREEMENT, PLUS AN ADDITIONAL AMOUNT TO COVER THE COST OF FIRST CLASS POSTAGE FOR MAILING A CERTIFIED COPY OF THE REVOKED DESIGNATED BENEFICIARY AGREEMENT TO THE OTHER PARTY. THE FEES COLLECTED BY THE CLERK AND RECORDER SHALL BE DEPOSITED IN THE COUNTY CLERK'S FEE FUND MAINTAINED AS REQUIRED IN SECTION 30-1-119, C.R.S.

(3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED REVOKED UPON THE MARRIAGE OF EITHER PARTY. IN THE CASE OF A COMMON LAW MARRIAGE, A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED REVOKED AS OF THE DATE THE COURT DETERMINES THAT A VALID COMMON LAW MARRIAGE EXISTS.

(4) THE FOLLOWING STATUTORY FORM SHALL BE THE STANDARD FORM FOR A REVOCATION OF A DESIGNATED BENEFICIARY AGREEMENT:

**REVOCATION
OF DESIGNATED BENEFICIARY AGREEMENT**

I _____ (INSERT YOUR FULL NAME), RESIDE AT _____
 (INSERT YOUR CURRENT ADDRESS) AND I ENTERED INTO A DESIGNATED
 BENEFICIARY AGREEMENT ON _____ (INSERT THE DATE) WITH THE FOLLOWING
 PERSON _____ (INSERT THE OTHER PERSON'S NAME) WHOSE LAST
 KNOWN ADDRESS IS _____ IN WHICH I DESIGNATED SUCH
 PERSON AS A DESIGNATED BENEFICIARY. THIS DESIGNATED BENEFICIARY
 AGREEMENT WAS RECORDED ON _____ (INSERT THE DATE) IN THE COUNTY OF
 _____. THE INDEXING FILE NUMBER OF THE DESIGNATED BENEFICIARY
 AGREEMENT IS _____. I HEREBY REVOKE THAT DESIGNATED BENEFICIARY
 AGREEMENT, EFFECTIVE ON THE DATE AND TIME THAT THIS REVOCATION IS RECEIVED
 FOR RECORDING BY THE CLERK AND RECORDER OF _____ COUNTY.

 NAME DATE

STATE OF COLORADO

COUNTY OF _____
 THIS DOCUMENT WAS SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED
 BEFORE ME ON _____ DATE
 BY _____

MY COMMISSION EXPIRES _____

[SEAL]

NOTARY PUBLIC

THIS REVOCATION OF BENEFICIARY AGREEMENT WAS RECORDED IN MY OFFICE ON
 _____, _____, AT _____ O'CLOCK, AND, PURSUANT TO SECTION
 15-22-111, COLORADO REVISED STATUTES, I MAILED A COPY OF THIS REVOCATION
 OF BENEFICIARY AGREEMENT TO _____ AT THE ADDRESS CONTAINED IN
 THIS REVOCATION OF BENEFICIARY AGREEMENT.

CLERK AND RECORDER OF
 _____ COUNTY
 BY: _____

15-22-112. Death of a designated beneficiary - effect on designated beneficiary agreement. (1) A DESIGNATED BENEFICIARY AGREEMENT IS TERMINATED UPON THE DEATH OF EITHER OF THE PARTIES TO THE DESIGNATED BENEFICIARY AGREEMENT; HOWEVER, A RIGHT OR POWER WHICH A DESIGNATED BENEFICIARY AGREEMENT CONFERRED UPON A DESIGNATED BENEFICIARY SURVIVES THE DEATH OF THE OTHER DESIGNATED BENEFICIARY.

(2) A PARTY TO A DESIGNATED BENEFICIARY AGREEMENT WHO SURVIVES A DESIGNATED BENEFICIARY MAY ENTER INTO A DESIGNATED BENEFICIARY AGREEMENT WITH A DIFFERENT PERSON SO LONG AS IT MEETS THE REQUIREMENTS OF THIS ARTICLE.

SECTION 2. 8-41-501 (1), Colorado Revised Statutes, is amended to read:

8-41-501. Persons presumed wholly dependent. (1) For the purposes of articles 40 to 47 of this title, the following described persons shall be presumed to be wholly dependent (however, such presumption may be rebutted by competent evidence):

(a) Widow or widower, unless it is shown that she or he was voluntarily separated and living apart from the spouse at the time of the injury or death or was not dependent in whole or in part on the deceased for support;

(a.5) A PERSON WHO IS DESIGNATED IN A DESIGNATED BENEFICIARY AGREEMENT FOR PURPOSES OF RECEIVING WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 22 OF TITLE 15, C.R.S., UNLESS IT IS SHOWN THAT THE DESIGNATED BENEFICIARY WAS VOLUNTARILY SEPARATED AND LIVING APART FROM THE OTHER DESIGNATED BENEFICIARY AT THE TIME OF THE INJURY OR DEATH OR WAS NOT DEPENDENT IN WHOLE OR IN PART ON THE DECEASED FOR SUPPORT;

(b) Minor children of the deceased under the age of eighteen years, including posthumous or legally adopted children;

(c) Minor children of the deceased who are eighteen years or over and under the age of twenty-one years if it is shown that:

(I) At the time of the decedent's death they were actually dependent upon the deceased for support; and

(II) Either at the time of the decedent's death or at the time they attained the age of eighteen years they were engaged in courses of study as full-time students at any accredited school. The period of presumed dependency of such persons shall continue until they attain the age of twenty-one years or until they cease to be engaged in courses of study as full-time students at an accredited school, whichever occurs first.

SECTION 3. 10-16-102 (14) and (26) (d), Colorado Revised Statutes, are amended to read:

10-16-102. Definitions. As used in this article, unless the context otherwise requires:

(14) "Dependent" means a spouse, an unmarried child under nineteen years of age, an unmarried child who is a full-time student under twenty-four years of age and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent. "DEPENDENT" SHALL INCLUDE A DESIGNATED BENEFICIARY, AS DEFINED IN SECTION 15-22-103 (1), C.R.S., IF AN EMPLOYER ELECTS TO COVER A DESIGNATED BENEFICIARY AS A DEPENDENT.

(26) "Late enrollee" means an eligible employee or dependent who requests enrollment in a group health benefit plan following the initial enrollment period for which such individual is entitled to enroll under the terms of the health benefit plan,

if such initial enrollment period is a period of at least thirty days. An eligible employee or dependent shall not be considered a late enrollee if:

(d) (I) A person becomes a dependent of a covered person through marriage, birth, adoption, or placement for adoption and requests enrollment no later than thirty days after becoming such a dependent. In such case, coverage shall commence on the date the person becomes a dependent if a request for enrollment is received in a timely fashion before such date.

(II) A PERSON WHO BECOMES A DEPENDENT OF A COVERED PERSON THROUGH A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., REQUESTS ENROLLMENT NO LATER THAN THIRTY DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER OF THE COVERED PERSON ELECTS TO COVER DESIGNATED BENEFICIARIES AS DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE DATE THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT IS RECEIVED IN A TIMELY FASHION BEFORE SAID DATE.

SECTION 4. 10-16-105 (7.2) (c), Colorado Revised Statutes, is amended to read:

10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic health benefit plans - rules - benefit design advisory committee - repeal. (7.2) The commissioner shall promulgate rules to implement a basic health benefit plan and a standard health benefit plan to be offered by each small employer carrier as a condition of transacting business in this state. The commissioner shall survey small group carriers annually to determine the range of health benefit plans available. The commissioner shall implement a basic plan that approximates the lowest level of coverage offered in small group health benefit plans. A basic health benefit plan may be based on the latest medical evidence. The commissioner shall implement a standard plan that approximates the average level of coverage offered in small group health benefit plans. In determining levels of coverage, the commissioner shall consider factors such as coinsurance, copayments, deductibles, out-of-pocket maximums, and covered benefits. The commissioner shall amend the rules as necessary to implement the basic and standard health benefit plans. The rules shall be in conformity with article 4 of title 24, C.R.S., and shall incorporate the following standard health benefit plan design described in paragraph (a) of this subsection (7.2) and the various options for the basic health benefit plan design described in paragraph (b) of this subsection (7.2):

(c) Notwithstanding any provision of law to the contrary, a small employer carrier may offer and a small employer may accept or reject coverage for employees' domestic partners and their dependents OR FOR EMPLOYEES' DESIGNATED BENEFICIARIES AND THEIR DEPENDENTS under a standard or basic health benefit plan.

SECTION 5. 12-34-109 (a), Colorado Revised Statutes, is amended to read:

12-34-109. Who may make anatomical gift of decedent's body or part.
(a) Subject to subsections (b) and (c) of this section and unless barred by section 12-34-107 or 12-34-108, an anatomical gift of a decedent's body or part for purpose

of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under section 12-34-104 (2) immediately before the decedent's death;

(2) The spouse of the decedent;

(2.5) A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BE AN AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS OF THE DECEDENT;

(3) Adult children of the decedent;

(4) Parents of the decedent;

(5) Adult siblings of the decedent;

(6) Adult grandchildren of the decedent;

(7) Grandparents of the decedent;

(8) An adult who exhibited special care and concern for the decedent;

(9) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(10) Any other person having the authority to dispose of the decedent's body.

SECTION 6. 13-21-201 (1), Colorado Revised Statutes, is amended to read:

13-21-201. Damages for death. (1) When any person dies from any injury resulting from or occasioned by the negligence, unskillfulness, or criminal intent of any officer, agent, servant, or employee while running, conducting, or managing any locomotive, car, or train of cars, or of any driver of any coach or other conveyance operated for the purpose of carrying either freight or passengers for hire while in charge of the same as a driver, and when any passenger dies from an injury resulting from or occasioned by any defect or insufficiency in any railroad or any part thereof, or in any locomotive or car, or other conveyance operated for the purpose of carrying either freight or passengers for hire, the corporation or individuals in whose employ any such officer, agent, servant, employee, master, pilot, engineer, or driver is at the time such injury is committed, or who owns any such railroad, locomotive, car, or other conveyance operated for the purpose of carrying either freight or passengers for hire at the time any such injury is received, and resulting from or occasioned by the defect or insufficiency above described shall forfeit and pay for every person and passenger so injured the sum of not exceeding ten thousand dollars and not less than three thousand dollars, which may be sued for and recovered:

(a) In the first year after such death:

(I) By the spouse of the deceased;

(II) Upon the written election of the spouse, by the spouse and the heir or heirs of the deceased;

(III) Upon the written election of the spouse, by the heir or heirs of the deceased; or

(IV) If there is no spouse, by the HEIR OR HEIRS OF THE DECEASED OR THE DESIGNATED BENEFICIARY, IF THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION, AND IF THERE IS NO DESIGNATED BENEFICIARY, BY THE heir or heirs of the deceased;

(b) (I) In the second year after such death:

(A) By the spouse of the deceased;

(B) By the heir or heirs of the deceased; or

(C) By the spouse and the heir or heirs of the deceased; OR

(D) BY THE DESIGNATED BENEFICIARY OF THE DECEASED, IF THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION, AND THE HEIR OR HEIRS OF THE DECEASED.

(II) However, if the heir or heirs of the deceased commence an action under the provisions of sub-subparagraph (B) of subparagraph (I) of this paragraph (b), the spouse OR THE DESIGNATED BENEFICIARY OF THE DECEASED, IF THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION, upon motion filed within ninety days after service of written notice of the commencement of the action upon ~~him~~ THE SPOUSE OR DESIGNATED BENEFICIARY, shall be allowed to join the action as a party plaintiff.

(c) (I) If the deceased is an unmarried minor without descendants or an unmarried adult without descendants AND WITHOUT A DESIGNATED BENEFICIARY PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., by the father or mother who may join in the suit. Except as provided in subparagraphs (II) and (III) of this paragraph (c), the father and mother shall have an equal interest in the judgment, or if either of them is dead, then the surviving parent shall have an exclusive interest in the judgment.

(II) For cases in which the father and mother are divorced, separated, or living apart, a motion may be filed by either the father or the mother prior to trial requesting the court to apportion fairly any judgment awarded in the case. Where such a motion is filed, the court shall conduct a post-judgment hearing at which the father and the mother shall have the opportunity to be heard and to produce evidence regarding each parent's relationship with the deceased child.

(III) On conclusion of the post-judgment hearing conducted pursuant to subparagraph (II) of this paragraph (c), the court shall fairly determine the percentage of the judgment to be awarded to each parent. In making such a determination, the court shall consider each parent's relationship with the deceased, including custody, control, support, parental responsibility, and any other factors the court deems pertinent. The court's determination of the percentage of the judgment awarded to each parent shall not be disturbed absent an abuse of discretion.

(d) For purposes of this section, "father or mother" means a natural parent of the deceased or a parent of the deceased by adoption. "Father or mother" does not include a person whose parental rights concerning the deceased were terminated pursuant to the provisions of title 19, C.R.S.

SECTION 7. 15-11-103, Colorado Revised Statutes, is amended to read:

15-11-103. Share of heirs other than surviving spouse. Any part of the intestate estate not passing to the decedent's surviving spouse under section 15-11-102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated who survive the decedent:

(1) TO A DESIGNATED BENEFICIARY WHO WAS DESIGNATED BY THE DECEDENT TO BE HIS OR HER DESIGNATED BENEFICIARY FOR PURPOSES OF INTESTATE SUCCESSION PURSUANT TO A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN EXECUTED AND RECORDED WITH A COUNTY CLERK AND RECORDER AS PROVIDED IN ARTICLE 22 OF THIS TITLE; EXCEPT THAT, IF THE DECEDENT HAS SURVIVING CHILDREN, THEN THE DESIGNATED BENEFICIARY SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE AND THE SURVIVING CHILDREN SHALL RECEIVE ONE-HALF OF THE INTESTATE ESTATE;

~~(1)~~ (2) To the decedent's descendants per capita at each generation;

~~(2)~~ (3) If there is no surviving descendant, to the decedent's parents equally if both survive, or to the decedent's surviving parent;

~~(3)~~ (4) If there is no surviving descendant or surviving parent, to the surviving descendants of the decedent's parents or either of them per capita at each generation;

~~(4)~~ (5) If there is no surviving descendant, surviving parent, or surviving descendant of a parent, to the decedent's surviving grandparents, or any of them, in equal shares;

~~(5)~~ (6) If there is no surviving descendant, surviving parent, surviving descendant of a parent, or surviving grandparent, to the surviving descendants of the decedent's grandparents per capita at each generation;

~~(6)~~ (7) If there is no surviving heir under subsections (1) to ~~(5)~~ (6) of this section, and if a birth child or birth children file a claim for inheritance with the court having probate jurisdiction for the decedent's estate within ninety days of decedent's death, to the decedent's surviving birth child or children per capita at each generation. For purposes of this subsection ~~(6)~~ (7), the term "birth child" means a child who was born to, but adopted away from, his or her natural parent.

~~(7)~~ (8) If there is no surviving heir or birth child under subsections (1) to ~~(6)~~ (7) of this section, and if a birth parent or birth parents file a claim for inheritance with the court having probate jurisdiction for the decedent's estate within ninety days of decedent's death, to the decedent's birth parents equally if both survive, or to the surviving birth parent. For purposes of this subsection ~~(7)~~ (8), the term "birth parent" means the natural parent of a child who was born to, but adopted away from, the natural parent.

SECTION 8. 15-11-106 (2) and (3), Colorado Revised Statutes, are amended to read:

15-11-106. Per capita at each generation. (2) Decedent's descendants. If, under section 15-11-103 ~~(1)~~ (2), a decedent's intestate estate or a part thereof passes "per capita at each generation" to the decedent's descendants, the estate or part thereof is divided into as many equal shares as there are (i) surviving descendants in the generation nearest to the decedent which contains one or more surviving descendants and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who are allocated a share and their surviving descendants had predeceased the decedent.

(3) **Descendants of parents or grandparents.** If, under section 15-11-103 ~~(3)~~ (4) or ~~(5)~~ (6), a decedent's intestate estate or a part thereof passes "per capita at each generation" to the descendants of the decedent's deceased parents or either of them, or to the descendants of the decedent's deceased grandparents or any of them, the estate or part thereof is divided into as many equal shares as there are (i) surviving descendants in the generation nearest to the deceased parents or either of them, or the deceased grandparents or any of them, that contains one or more surviving descendants and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the decedent.

SECTION 9. 15-11-114 (2), Colorado Revised Statutes, is amended to read:

15-11-114. Parent and child relationship. (2) For purposes of intestate succession by, through, or from a person, an adopted individual is the child of his or her adopting parent or parents and not of his or her birth parents, except for inheritance rights as specified in section 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse of either birth parent has no effect on the relationship between the child and the birth parent whose spouse has adopted the child.

SECTION 10. 15-12-203 (1), Colorado Revised Statutes, is amended to read:

15-12-203. Priority among persons seeking appointment as personal representative. (1) Whether the proceedings are formal or informal, persons who

are not disqualified have priority for appointment in the following order:

- (a) The person with priority as determined by a probated will including a person nominated by a power conferred in a will;
- (b) The surviving spouse of the decedent who is a devisee of the decedent;
- (b.5) A PERSON NOMINATED TO BE A PERSONAL REPRESENTATIVE BY A POWER CONFERRED IN A DESIGNATED BENEFICIARY AGREEMENT;
- (c) Other devisees of the decedent;
- (d) The surviving spouse of the decedent;
- (e) Other heirs of the decedent;
- (f) Forty-five days after the death of the decedent, any creditor.

SECTION 11. 15-14-310 (1), Colorado Revised Statutes, is amended to read:

15-14-310. Who may be guardian - priorities - prohibition of dual roles.

(1) Subject to subsection (4) of this section, the court in appointing a guardian shall consider persons otherwise qualified in the following order of priority:

- (a) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;
- (b) A person nominated as guardian by the respondent, including the respondent's specific nomination of a guardian made in a durable power of attorney OR IN A DESIGNATED BENEFICIARY AGREEMENT MADE PURSUANT TO ARTICLE 22 OF THIS TITLE;
- (c) An agent appointed by the respondent under a medical durable power of attorney pursuant to section 15-14-506;
- (d) An agent appointed by the respondent under a general durable power of attorney;
- (e) The spouse of the respondent or a person nominated by will or other signed writing of a deceased spouse;
- (f) An adult child of the respondent;
- (g) A parent of the respondent or an individual nominated by will or other signed writing of a deceased parent; and
- (h) An adult with whom the respondent has resided for more than six months immediately before the filing of the petition.

SECTION 12. 15-14-413 (1), Colorado Revised Statutes, is amended to read:

15-14-413. Who may be conservator - priorities - prohibition of dual roles.

(1) Except as otherwise provided in subsection (4) of this section, the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(a) A conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;

(b) A person nominated as conservator by the respondent, including the respondent's specific nomination of a conservator made in a durable power of attorney OR IN A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF THIS TITLE, if the respondent has attained twelve years of age;

(c) An agent appointed by the respondent to manage the respondent's property under a durable power of attorney;

(d) The spouse of the respondent;

(e) An adult child of the respondent;

(f) A parent of the respondent; and

(g) An adult with whom the respondent has resided for more than six months immediately before the filing of the petition.

SECTION 13. 15-18.5-103 (1), Colorado Revised Statutes, is amended to read:

15-18.5-103. Proxy decision-makers for medical treatment authorized. (1) A health care provider or health care facility may rely, in good faith, upon the medical treatment decision of a proxy decision-maker selected in accordance with subsection (4) of this section if an adult patient's attending physician determines that such patient lacks the decisional capacity to provide informed consent to or refusal of medical treatment and no guardian with medical decision-making authority, agent appointed in a medical durable power of attorney, PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE, or other known person has the legal authority to provide such consent or refusal on the patient's behalf.

SECTION 14. 15-18.5-104 (1), Colorado Revised Statutes, is amended to read:

15-18.5-104. Surrogate decision-makers for health care benefits. (1) A proxy decision-maker for medical treatment selected in accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have authority to make health care benefit decisions on behalf of an adult patient and may be known additionally as a surrogate decision-maker for health care benefits.

SECTION 15. 15-19-103 (3) and (4), Colorado Revised Statutes, are amended to read:

15-19-103. Definitions. As used in this article, unless the context otherwise requires:

(3) "Declaration" means a written instrument directing the lawful disposition of the declarant's last remains and the ceremonies planned after a declarant's death, in accordance with this article. A declaration may be made within a will; prepaid funeral, burial, or cremation contract; durable or medical power of attorney; A DESIGNATED BENEFICIARY AGREEMENT AS DESCRIBED IN ARTICLE 22 OF THIS TITLE; or any other written document, including, but not limited to, a document governing the disposition of last remains under part 7 of article 11 of this title.

(4) "Interested person" means the deceased's spouse, parent, DESIGNATED BENEFICIARY, adult child, sibling, grandchild, and other person designated in a declaration.

SECTION 16. 15-19-106 (1), Colorado Revised Statutes, is amended to read:

15-19-106. Right to dispose of remains. (1) Subject to section 15-19-105 (2), the right to control disposition of the last remains or ceremonial arrangements of a decedent vests in and devolves upon the following persons, at the time of the decedent's death, in the following order:

(a) The decedent if acting through a declaration pursuant to section 15-19-104;

(b) (I) Either the appointed personal representative or special administrator of the decedent's estate if such person has been appointed; or

(II) The nominee for appointment as personal representative under the decedent's will if a personal representative or special administrator has not been appointed;

(c) The surviving spouse of the decedent, if not legally separated from the decedent;

(c.5) A DESIGNATED BENEFICIARY WHO WAS DESIGNATED IN A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE 22 OF THIS TITLE AS HAVING THE RIGHT TO DIRECT THE DISPOSITION OF THE DECEDENT'S LAST REMAINS;

(d) A majority of the surviving adult children of the decedent;

(e) A majority of the surviving parents or legal guardians of the decedent, who shall act in writing;

(f) A majority of the surviving adult siblings of the decedent;

(g) (Deleted by amendment, L. 2006, p. 900, § 5, effective August 7, 2006.)

(h) Any person who is willing to assume legal and financial responsibility for the final disposition of the decedent's last remains.

SECTION 17. 30-10-406, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-10-406. County clerk and recorder - duties - filing requirements. (4) THE COUNTY CLERK AND RECORDER SHALL PERFORM THE DUTIES PRESCRIBED IN ARTICLE 22 OF TITLE 15, C.R.S., WITH RESPECT TO THE RECORDING AND PROCESSING OF DESIGNATED BENEFICIARY AGREEMENTS AND REVOCATIONS OF SUCH AGREEMENTS.

SECTION 18. 25-1-120 (1) (1) and (3) (a), Colorado Revised Statutes, are amended to read:

25-1-120. Nursing facilities - rights of patients. (1) The department shall require all skilled nursing facilities and intermediate care facilities to adopt and make public a statement of the rights and responsibilities of the patients who are receiving treatment in such facilities and to treat their patients in accordance with the provisions of said statement. The statement shall ensure each patient the following:

(1) The right to devolution of his OR HER rights and responsibilities upon a sponsor, ~~or~~ guardian, OR PERSON EXERCISING RIGHTS CONTAINED IN A DESIGNATED BENEFICIARY AGREEMENT EXECUTED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., who shall see that he OR SHE is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he OR SHE is capable of exercising should he OR SHE be determined to be incompetent pursuant to law and not be restored to legal capacity;

(3) Each skilled nursing facility or intermediate care facility shall prepare a written plan and provide appropriate facilities to ensure that the rights guaranteed by subsection (1) of this section are enforced by a grievance procedure which contains the following procedures and rights:

(a) A resident of any facility, the residents' advisory council, or the sibling, child, spouse, ~~or~~ parent, OR PERSON EXERCISING RIGHTS CONTAINED IN A DESIGNATED BENEFICIARY AGREEMENT EXECUTED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., of any resident may formally complain in the manner described in this subsection (3) about any conditions, treatment, or violations of his OR HER rights by the facility or its staff or about any treatment, conditions, or violations of the rights of any other resident, regardless of the consent of the victim of the alleged improper treatment, condition, or violation of rights by the facility or its staff.

SECTION 19. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 20. Effective date. This act shall take effect July 1, 2009.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 9, 2009