

HB1260_L.030

SENATE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1260 be amended as follows:

- 1 Amend reengrossed bill, page 6, strike lines 2 and 3 and substitute the
2 following:
- 3 "(h) A BENEFICIARY DESIGNATION FOR A DEPOSIT OR ACCOUNT,
4 INCLUDING BUT NOT LIMITED TO DEMAND, SAVINGS, AND TIME DEPOSIT
5 ACCOUNTS;
- 6 (i) A DECLARATION AS TO MEDICAL TREATMENT EXECUTED
7 PURSUANT TO ARTICLE 18 OF THIS TITLE;
- 8 (j) A DECLARATION AS TO DISPOSITION OF LAST REMAINS
9 EXECUTED PURSUANT TO ARTICLE 19 OF THIS TITLE; OR";
- 10 Reletter succeeding paragraph accordingly.
- 11 Page 6, line 18, after the period add "FOR PURPOSES OF THIS ARTICLE,
12 "SUBSTANTIAL COMPLIANCE" SHALL MEAN THAT THE AGREEMENT
13 INCLUDES THE DISCLAIMER CONTAINED IN SECTION 15-22-106, THE
14 INSTRUCTIONS AND HEADINGS ABOUT HOW TO GRANT OR WITHHOLD A
15 RIGHT OR PROTECTION, THE STATEMENTS ABOUT THE EFFECTIVE DATE OF
16 THE AGREEMENT AND HOW TO RECORD THE AGREEMENT, THE SIGNATURES
17 FOR THE TWO PARTIES, AND THE ACKNOWLEDGMENTS FOR THE NOTARY
18 PUBLIC."
- 19 Page 7, strike lines 23 through 25 and substitute the following:



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

6 Page 8, strike line 10 and substitute the following:

7 "BENEFICIARY IN A HOSPITAL, NURSING HOME, HOSPICE, OR SIMILAR
8 HEALTH CARE FACILITY IN WHICH A PARTY TO A DESIGNATED BENEFICIARY
9 RESIDES OR IS RECEIVING CARE, INCLUDING THE RIGHT TO INITIATE A
10 FORMAL COMPLAINT ALLEGING A VIOLATION OF THE RIGHTS OF NURSING
11 HOME PATIENTS SPECIFIED IN SECTION 25-1-120, C.R.S.;"

12 line 13, after "BENEFICIARY", insert "AS IF SELECTED".

13 Page 9, line 18, strike "OTHER SUPERSEDING LEGAL DOCUMENTS." and
14 substitute "SUPERSEDING LEGAL DOCUMENTS OR OTHER CONTRACTS OR
15 INSTRUMENTS.";

16 after line 26, insert the following:

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"DISCLAIMER

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

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**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**



1 **ADDITIONAL ACTION WILL BE REQUIRED TO MAKE OR CHANGE**
2 **SUCH DESIGNATIONS. THE PARTIES UNDERSTAND THAT THIS**
3 **DESIGNATED BENEFICIARY AGREEMENT MAY BE ONE COMPONENT**
4 **OF ESTATE PLANNING INSTRUCTIONS AND THAT THEY ARE**
5 **ENCOURAGED TO CONSULT AN ATTORNEY TO ENSURE THEIR**
6 **ESTATE PLANNING WISHES ARE ACCOMPLISHED."**

7 Page 11, line 17, strike "HOSPITAL OR IN A" AND SUBSTITUTE "HOSPITAL,
8 NURSING HOME, HOSPICE, OR SIMILAR HEALTH CARE FACILITY IN WHICH A
9 PARTY TO A DESIGNATED BENEFICIARY RESIDES OR IS RECEIVING CARE;"

10 strike line 18 and substitute the following:

11 " _____ THE RIGHT TO INITIATE A FORMAL _____
12 COMPLAINT REGARDING ALLEGED
13 VIOLATIONS OF MY RIGHTS AS A NURSING
14 HOME PATIENT AS PROVIDED IN SECTION
15 25-1-120, COLORADO REVISED STATUTES;"

16 Page 13, after line 22, insert the following:

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

22 Renumber succeeding subsections accordingly.

23 Page 33, strike lines 8 through 17 and substitute the following:

24 "SECTION 17. 25-1-120 (1) (l) and (3) (a), Colorado Revised
25 Statutes, are amended to read:

26 **25-1-120. Nursing facilities - rights of patients.** (1) The
27 department shall require all skilled nursing facilities and intermediate care
28 facilities to adopt and make public a statement of the rights and
29 responsibilities of the patients who are receiving treatment in such
30 facilities and to treat their patients in accordance with the provisions of
31 said statement. The statement shall ensure each patient the following:

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

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

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

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