

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0206.01 Debbie Haskins

HOUSE BILL 09-1260

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Veiga,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING DESIGNATED BENEFICIARY AGREEMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes 2 competent adults who are not married to enter into a designated beneficiary agreement, making each adult a designated beneficiary of the other. Provides that, in the absence of a superseding legal document that controls, a designated beneficiary agreement entitles each party to:

- ! Certain financial protections regarding ownership of real and personal property;
- ! Be a proxy decision-maker or a surrogate decision-maker to make other medical decisions for the other designated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Am ended 2nd Reading
March 20, 2009

HOUSE
3rd Reading Unam ended
February 24, 2009

HOUSE
Am ended 2nd Reading
February 20, 2009

- beneficiary;
- ! Be a conservator or guardian for the other designated beneficiary;
- ! Be treated as a beneficiary under the other designated beneficiary's benefits for life insurance;
- ! Be treated as a dependent under the other designated beneficiary's benefits for health insurance if the designated beneficiary's employer elects to provide coverage to designated beneficiaries;
- ! Have the right to visit the other designated beneficiary in the hospital or in a nursing home;
- ! Inherit through intestate succession upon the death of the other designated beneficiary;
- ! Have standing to sue for wrongful death of the other designated beneficiary;
- ! Act as an agent to make, revoke, or object to anatomical gifts involving the other designated beneficiary;
- ! Direct the disposition of the other designated beneficiary's last remains.

Specifies the requirements for a designated beneficiary agreement. Allows a party to a designated beneficiary agreement to specify which rights and protections are granted through the designated beneficiary agreement.

States that domestic partners or parties in a civil union registered or recognized pursuant to another jurisdiction shall be deemed to have executed a designated beneficiary agreement if the parties otherwise qualify as designated beneficiaries. States that a legal contract pursuant to another jurisdiction's law which is not valid in Colorado pursuant to the state constitutional provision regarding the recognition of marriages shall be treated as a designated beneficiary agreement if the parties qualify to enter into a designated beneficiary agreement and both parties are present or reside in Colorado.

Requires the parties to a designated beneficiary agreement to file the agreement with the clerk and recorder of the county in which one of the parties resides. Allows either party to a designated beneficiary agreement to unilaterally revoke the agreement by filing a document with the clerk and recorder of the county in which the agreement was filed. Declares that a designated beneficiary agreement shall be deemed revoked upon the marriage of either party and, in the case of a common law marriage, as of the date the court determines that a valid common law marriage exists.

Provides that a designated beneficiary agreement is terminated upon the death of either of the parties to the agreement; however, a right or power conferred in the agreement survives the death of the other party. States that a party to a designated beneficiary agreement who survives a

designated beneficiary may enter into a designated beneficiary agreement with a different person.

Makes conforming amendments.

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

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

4 **ARTICLE 22**

5 **Designated Beneficiary Agreements**

6 **15-22-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO DESIGNATED BENEFICIARY AGREEMENT
8 ACT".

9 **15-22-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY FINDS AND DETERMINES THAT:

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

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

22 (c) A BODY OF LAW HAS BEEN ENACTED TO OPERATE BY DEFAULT
23 IN SITUATIONS IN WHICH INDIVIDUALS DO NOT PREPARE ESTATE PLANS.
24 HOWEVER, FAILURE TO PLAN FOR DISABILITY, INCAPACITY, OR DEATH

1 PLACES PEOPLE AT THE MERCY OF STATE LAWS THAT MAY VEST THE
2 POWER TO ACT IN SUCH SITUATIONS IN PERSONS OTHER THAN THOSE THEY
3 WOULD WISH TO HAVE EXERCISE THOSE POWERS. MANY LACK ACCESS TO
4 LEGAL SERVICES DUE TO THE EXPENSE OF DRAFTING LEGAL INSTRUMENTS
5 AND THE NECESSITY TO KEEP THESE DOCUMENTS CURRENT.

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

11 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

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

15 (b) THE PURPOSES OF THIS ARTICLE ARE TO:

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

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

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

27 **15-22-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

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

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

11 (3) "SUPERSEDING LEGAL DOCUMENT" MEANS A LEGAL
12 DOCUMENT, REGARDLESS OF THE DATE OF EXECUTION, THAT IS VALID AND
13 ENFORCEABLE AND CONFLICTS WITH ALL OR A PORTION OF A DESIGNATED
14 BENEFICIARY AGREEMENT AND, THEREFORE, CAUSES THE DESIGNATED
15 BENEFICIARY AGREEMENT IN WHOLE OR IN PART TO BE REPLACED OR SET
16 ASIDE. TO THE EXTENT THERE IS A CONFLICT BETWEEN A SUPERSEDING
17 LEGAL DOCUMENT AND A DESIGNATED BENEFICIARY AGREEMENT, THE
18 SUPERSEDING LEGAL DOCUMENT CONTROLS. A SUPERSEDING LEGAL
19 DOCUMENT MAY INCLUDE, BUT NEED NOT BE LIMITED TO, ANY OF THE
20 FOLLOWING:

- 21 (a) A WILL;
- 22 (b) A CODICIL;
- 23 (c) A POWER OF ATTORNEY;
- 24 (d) A MEDICAL DURABLE POWER OF ATTORNEY;
- 25 (e) A TRUST INSTRUMENT;
- 26 (f) A BENEFICIARY DESIGNATION IN AN INSURANCE POLICY OR
27 POLICY OF HEALTH CARE COVERAGE;

1 (g) A BENEFICIARY DESIGNATION IN A RETIREMENT OR PENSION
2 PLAN;

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 (k) A MARRIAGE LICENSE.

11 **15-22-104. Requirements for a valid designated beneficiary**
12 **agreement.** (1) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
13 LEGALLY RECOGNIZED IF:

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

16 (I) BOTH ARE AT LEAST EIGHTEEN YEARS OF AGE;

17 (II) BOTH ARE COMPETENT TO ENTER INTO A CONTRACT;

18 (III) NEITHER PARTY IS MARRIED TO ANOTHER PERSON;

19 (IV) NEITHER PARTY IS A PARTY TO ANOTHER DESIGNATED
20 BENEFICIARY AGREEMENT; AND

21 (V) BOTH PARTIES ENTER INTO THE DESIGNATED BENEFICIARY
22 AGREEMENT WITHOUT FORCE, FRAUD, OR DURESS; AND

23 (b) THE AGREEMENT IS IN SUBSTANTIAL COMPLIANCE WITH THE
24 REQUIREMENTS SET FORTH IN THIS ARTICLE. FOR PURPOSES OF THIS
25 ARTICLE, "SUBSTANTIAL COMPLIANCE" SHALL MEAN THAT THE
26 AGREEMENT INCLUDES THE DISCLAIMER CONTAINED IN SECTION
27 15-22-106, THE INSTRUCTIONS AND HEADINGS ABOUT HOW TO GRANT OR

1 WITHHOLD A RIGHT OR PROTECTION, THE STATEMENTS ABOUT THE
2 EFFECTIVE DATE OF THE AGREEMENT AND HOW TO RECORD THE
3 AGREEMENT, THE SIGNATURES FOR THE TWO PARTIES, AND THE
4 ACKNOWLEDGMENTS FOR THE NOTARY PUBLIC.

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

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

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

13 (c) THE DESIGNATED BENEFICIARY AGREEMENT IS
14 ACKNOWLEDGED; AND

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

17 **15-22-105. Effects and applicability of a designated**
18 **beneficiary agreement.** (1) A PERSON NAMED AS A DESIGNATED
19 BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
20 ENTITLED TO EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN THE
21 AGREEMENT BY VIRTUE OF HAVING BEEN SO NAMED.

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

27 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL ENTITLE THE

1 PARTIES TO EXERCISE THE FOLLOWING RIGHTS AND ENJOY THE FOLLOWING
2 PROTECTIONS, UNLESS SPECIFICALLY EXCLUDED FROM THE DESIGNATED
3 BENEFICIARY AGREEMENT:

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

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

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

15 (I) PUBLIC EMPLOYEES' RETIREMENT SYSTEMS PURSUANT TO
16 ARTICLES 51 TO 54.6 OF TITLE 24, C.R.S.;

17 (II) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS;

18 (III) INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE; AND

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

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

25 (e) THE RIGHT TO VISITATION BY THE OTHER DESIGNATED
26 BENEFICIARY IN A HOSPITAL, NURSING HOME, HOSPICE, OR SIMILAR
27 HEALTHCARE FACILITY IN WHICH A PARTY TO A DESIGNATED BENEFICIARY

1 RESIDES OR IS RECEIVING CARE, INCLUDING THE RIGHT TO INITIATE A
2 FORMAL COMPLAINT ALLEGING A VIOLATION OF THE RIGHTS OF NURSING
3 HOME PATIENTS SPECIFIED IN SECTION 25-1-120, C.R.S.:

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

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

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

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

20 (j) THE RIGHT TO HAVE STANDING TO RECEIVE BENEFITS PURSUANT
21 TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO
22 47 OF TITLE 8, C.R.S., MADE ON BEHALF OF THE OTHER DESIGNATED
23 BENEFICIARY;

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

26 (l) THE RIGHT TO DIRECT THE DISPOSITION OF THE OTHER
27 DESIGNATED BENEFICIARY'S LAST REMAINS PURSUANT TO ARTICLE 19 OF

1 THIS TITLE.

2 (4) THIS ARTICLE SHALL NOT BE CONSTRUED TO CREATE ANY
3 RIGHTS, PROTECTIONS, OR RESPONSIBILITIES FOR DESIGNATED
4 BENEFICIARIES THAT ARE NOT SPECIFICALLY ENUMERATED IN THE
5 DESIGNATED BENEFICIARY AGREEMENT AS AUTHORIZED IN THIS ARTICLE.

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

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

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

17 **15-22-106. Statutory form of a designated beneficiary**
18 **agreement.** (1) THE FOLLOWING STATUTORY FORM SHALL BE THE
19 STANDARD FORM FOR A DESIGNATED BENEFICIARY AGREEMENT:

20 **DESIGNATED BENEFICIARY AGREEMENT**

21 **DISCLAIMER**

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

25 **THIS DESIGNATED BENEFICIARY AGREEMENT IS OPERATIVE IN**
26 **THE ABSENCE OF OTHER ESTATE PLANNING DOCUMENTS AND**
27 **WILL BE SUPERSEDED AND SET ASIDE TO THE EXTENT IT**

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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

1	ARE WITHHOLDING.		
2	TO GRANT A RIGHT		TO WITHHOLD A RIGHT
3	OR PROTECTION		OR PROTECTION
4	INITIAL		INITIAL
5	PARTY A	PARTY B	PARTY A PARTY B
6	___	___	___
7	THE RIGHT TO ACQUIRE, HOLD TITLE TO, OWN		___
8	JOINTLY, OR TRANSFER INTER VIVOS OR AT		___
9	DEATH REAL OR PERSONAL PROPERTY AS A		
10	JOINT TENANT WITH ME WITH RIGHT OF		
11	SURVIVORSHIP OR AS A TENANT IN COMMON		
12	WITH ME;		
13	___	___	___
14	THE RIGHT TO BE DESIGNATED BY ME AS A		___
15	BENEFICIARY, PAYEE, OR OWNER AS A		___
16	TRUSTEE NAMED IN AN INTER VIVOS OR		
17	TESTAMENTARY TRUST FOR THE PURPOSES OF		
18	A NONPROBATE TRANSFER ON DEATH;		
19	___	___	___
20	THE RIGHT TO BE DESIGNATED BY ME AS A		___
21	BENEFICIARY AND RECOGNIZED AS A		___
22	DEPENDENT IN AN INSURANCE POLICY FOR		
23	LIFE INSURANCE ;		
24	___	___	___
25	THE RIGHT TO BE DESIGNATED BY ME AS A		___
26	BENEFICIARY AND RECOGNIZED AS A		___
27	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		___

1 BENEFICIARY IN A RETIREMENT OR PENSION
2 PLAN;
3 _____ THE RIGHT TO PETITION FOR AND HAVE _____
4 PRIORITY FOR APPOINTMENT AS A
5 CONSERVATOR, GUARDIAN, OR PERSONAL
6 REPRESENTATIVE FOR ME;
7 _____ THE RIGHT TO VISIT ME IN A HOSPITAL, _____
8 NURSING HOME, HOSPICE, OR SIMILAR
9 HEALTHCARE FACILITY IN WHICH A PARTY TO
10 A DESIGNATED BENEFICIARY AGREEMENT
11 RESIDES OR IS RECEIVING CARE;
12 THE RIGHT TO INITIATE A FORMAL _____
13 COMPLAINT REGARDING ALLEGED
14 VIOLATIONS OF MY RIGHTS AS A NURSING
15 HOME PATIENT AS PROVIDED IN SECTION
16 25-1-120, COLORADO REVISED STATUTES;
17 _____ THE RIGHT TO ACT AS A PROXY _____
18 DECISION-MAKER OR SURROGATE
19 DECISION-MAKER TO MAKE MEDICAL CARE
20 DECISIONS FOR ME PURSUANT TO SECTION
21 15-18.5-103 OR 15-18.5-104, COLORADO
22 REVISED STATUTES;
23 _____ THE RIGHT TO NOTICE OF THE WITHHOLDING _____
24 OR WITHDRAWAL OF LIFE-SUSTAINING
25 PROCEDURES FOR ME PURSUANT TO SECTION
26 15-18-107, COLORADO REVISED STATUTES;
27 _____ THE RIGHT TO CHALLENGE THE VALIDITY OF _____

1 A DECLARATION AS TO MEDICAL OR SURGICAL
2 TREATMENT OF ME PURSUANT TO SECTION
3 15-18-107, COLORADO REVISED STATUTES;
4 ____ ____ THE RIGHT TO ACT AS MY AGENT TO MAKE, ____ ____
5 REVOKE, OR OBJECT TO ANATOMICAL GIFTS
6 INVOLVING MY PERSON PURSUANT TO THE
7 "REVISED UNIFORM ANATOMICAL GIFT
8 ACT", PART 1 OF ARTICLE 34 OF TITLE 12,
9 COLORADO REVISED STATUTES;
10 ____ ____ THE RIGHT TO INHERIT REAL OR PERSONAL ____ ____
11 PROPERTY FROM ME THROUGH INTESTATE
12 SUCCESSION;
13 ____ ____ THE RIGHT TO HAVE STANDING TO RECEIVE ____ ____
14 BENEFITS PURSUANT TO THE "WORKERS'
15 COMPENSATION ACT OF COLORADO",
16 ARTICLE 40 OF TITLE 8, COLORADO REVISED
17 STATUTES, IN THE EVENT OF MY == DEATH ON
18 THE JOB;
19 ____ ____ THE RIGHT TO HAVE STANDING TO SUE FOR ____ ____
20 WRONGFUL DEATH IN THE EVENT OF MY
21 DEATH; AND
22 ____ ____ THE RIGHT TO DIRECT THE DISPOSITION OF ____ ____
23 MY LAST REMAINS PURSUANT TO ARTICLE 19
24 OF TITLE 15, COLORADO REVISED STATUTES.

25 THIS DESIGNATED BENEFICIARY AGREEMENT IS EFFECTIVE
26 WHEN RECEIVED FOR RECORDING BY THE COUNTY CLERK
27 AND RECORDER OF THE COUNTY IN WHICH ONE OF THE

1 DESIGNATED BENEFICIARIES RESIDES. THIS DESIGNATED
2 BENEFICIARY AGREEMENT WILL CONTINUE IN EFFECT UNTIL
3 ONE OF THE DESIGNATED BENEFICIARIES REVOKES THIS
4 AGREEMENT BY RECORDING A REVOCATION OF DESIGNATED
5 BENEFICIARY FORM WITH THE COUNTY CLERK AND
6 RECORDER OF THE COUNTY IN WHICH THIS AGREEMENT WAS
7 RECORDED OR UNTIL THIS AGREEMENT IS SUPERSEDED IN
8 PART OR IN WHOLE BY A SUPERSEDING LEGAL DOCUMENT.

9 _____
10 SIGNATURE OF DESIGNATED BENEFICIARY SIGNATURE OF DESIGNATED BENEFICIARY

11 STATE OF COLORADO

12 COUNTY OF _____

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

15 BY
16 _____

17 MY COMMISSION EXPIRES _____

18 [SEAL]

19 _____
20 NOTARY PUBLIC

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

26 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED
27 TO EXTEND ALL OF THE RIGHTS AND PROTECTIONS LISTED IN THE

1 STATUTORY FORM UNLESS THE PARTIES TO THE AGREEMENT EXPLICITLY
2 EXCLUDE A RIGHT OR PROTECTION.

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

8 **15-22-107. Recording - duties of the county clerk and recorder**

9 - fee. (1) A SIGNED AND ACKNOWLEDGED DESIGNATED BENEFICIARY
10 AGREEMENT SHALL BE RECORDED WITH THE COUNTY CLERK AND
11 RECORDER IN THE COUNTY IN WHICH ONE OF THE PARTIES RESIDES. THE
12 DESIGNATED BENEFICIARY AGREEMENT SHALL BE EFFECTIVE AS OF THE
13 DATE AND TIME AS RECEIVED FOR RECORDING BY THE COUNTY CLERK AND
14 RECORDER. THE COUNTY CLERK AND RECORDER SHALL ASSESS A
15 RECORDING FEE _____ FOR RECORDING THE DESIGNATED BENEFICIARY
16 AGREEMENT IN THAT COUNTY, A FEE FOR ISSUING TWO CERTIFIED COPIES
17 OF THE DESIGNATED BENEFICIARY AGREEMENT THAT INDICATE THE DATE
18 AND TIME OF RECORDING WITH THE COUNTY, AND A FEE FOR TAKING
19 ACKNOWLEDGMENTS, IF APPLICABLE, AS PROVIDED IN SECTION 30-1-103,
20 C.R.S. ALL FEES COLLECTED BY THE COUNTY CLERK AND RECORDER
21 SHALL BE DEPOSITED IN THE COUNTY CLERK'S FEE FUND MAINTAINED AS
22 REQUIRED IN SECTION 30-1-119, C.R.S. THE COUNTY CLERK AND
23 RECORDER MAY REQUIRE THE PERSON RECORDING THE DESIGNATED
24 BENEFICIARY AGREEMENT TO INDICATE THE MAILING ADDRESS TO WHICH
25 THE ORIGINAL DOCUMENT SHOULD BE RETURNED AFTER RECORDING.

26 (2) THE CLERK AND RECORDER OF THE COUNTY IS ENCOURAGED TO
27 MAKE AVAILABLE COPIES OF THE STATUTORY FORMS AS PRESCRIBED IN

1 SECTIONS 15-22-106 AND 15-22-111.

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


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

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

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

13 (4) DESIGNATED BENEFICIARY AGREEMENTS AND REVOCATIONS OF
14 DESIGNATED BENEFICIARY AGREEMENTS SHALL BE CONSIDERED OPEN
15 RECORDS FOR PURPOSES OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

16 **15-22-108. Designated beneficiary agreement - effect on other**
17 **legal documents.** EXECUTION OF A DESIGNATED BENEFICIARY
18 AGREEMENT SHALL NOT CONSTITUTE EVIDENCE OF AN INTENT TO REVOKE
19 A PRIOR WILL OR CODICIL NOR SHALL IT AFFECT ANY BENEFICIARY
20 DESIGNATION, TRANSFER, OR BEQUEST CONTAINED IN ANY OTHER LEGAL
21 DOCUMENTS.

22 
23 **15-22-109. Affirmation of validity of designated beneficiary**
24 **agreement.** A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT
25 TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY
26 OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY
27 KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

1 **15-22-110. Reliance - immunity.** A THIRD PARTY WHO ACTS IN
2 GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A
3 VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO
4 CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

5 **15-22-111. Revocation of a designated beneficiary agreement.**

6 (1) A DESIGNATED BENEFICIARY AGREEMENT THAT HAS BEEN RECORDED
7 WITH A COUNTY CLERK AND RECORDER MAY BE UNILATERALLY REVOKED
8 BY EITHER PARTY TO THE AGREEMENT BY RECORDING A REVOCATION WITH
9 THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE AGREEMENT
10 WAS RECORDED. A REVOCATION SHALL BE DATED, SIGNED, AND
11 ACKNOWLEDGED. THE REVOCATION SHALL BE EFFECTIVE ON THE DATE
12 AND TIME THE REVOCATION IS RECEIVED FOR RECORDING BY THE COUNTY
13 CLERK AND RECORDER. THE CLERK AND RECORDER SHALL ISSUE A
14 CERTIFIED COPY TO THE PARTY RECORDING THE REVOCATION AND SHALL
15 MAIL A CERTIFIED COPY OF THE REVOCATION TO THE LAST-KNOWN
16 ADDRESS OF THE OTHER PARTY TO THE DESIGNATED BENEFICIARY
17 AGREEMENT.

18 (2) THE COUNTY CLERK AND RECORDER SHALL ASSESS FEES, AS
19 PROVIDED IN SECTION 30-1-103, C.R.S., FOR RECORDING A REVOCATION
20 AGREEMENT AND ISSUING TWO CERTIFIED COPIES OF THE REVOCATION
21 AGREEMENT, PLUS AN ADDITIONAL AMOUNT TO COVER THE COST OF FIRST
22 CLASS POSTAGE FOR MAILING A CERTIFIED COPY OF THE REVOKED
23 DESIGNATED BENEFICIARY AGREEMENT TO THE OTHER PARTY. THE FEES
24 COLLECTED BY THE CLERK AND RECORDER SHALL BE DEPOSITED IN THE
25 COUNTY CLERK'S FEE FUND MAINTAINED AS REQUIRED IN SECTION
26 30-1-119, C.R.S.

27 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED

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

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

7 **REVOCATION**
8 **OF DESIGNATED BENEFICIARY AGREEMENT**

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

22 _____

23 NAME DATE

24 STATE OF COLORADO

25 COUNTY OF _____

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

1 BY
2 _____
3 MY COMMISSION EXPIRES _____

4 [SEAL]

5 _____
6 NOTARY PUBLIC

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

13 CLERK AND RECORDER OF
14 _____ COUNTY
15 BY: _____

16 **15-22-112. Death of a designated beneficiary - effect on**
17 **designated beneficiary agreement.** (1) A DESIGNATED BENEFICIARY
18 AGREEMENT IS TERMINATED UPON THE DEATH OF EITHER OF THE PARTIES
19 TO THE DESIGNATED BENEFICIARY AGREEMENT; HOWEVER, A RIGHT OR
20 POWER WHICH A DESIGNATED BENEFICIARY AGREEMENT CONFERRED UPON
21 A DESIGNATED BENEFICIARY SURVIVES THE DEATH OF THE OTHER
22 DESIGNATED BENEFICIARY.

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

27 **SECTION 2.** 8-41-501 (1), Colorado Revised Statutes, is

1 amended to read:

2 **8-41-501. Persons presumed wholly dependent.** (1) For the
3 purposes of articles 40 to 47 of this title, the following described persons
4 shall be presumed to be wholly dependent (however, such presumption
5 may be rebutted by competent evidence):

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

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

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

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

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

24 (II) Either at the time of the decedent's death or at the time they
25 attained the age of eighteen years they were engaged in courses of study
26 as full-time students at any accredited school. The period of presumed
27 dependency of such persons shall continue until they attain the age of

1 twenty-one years or until they cease to be engaged in courses of study as
2 full-time students at an accredited school, whichever occurs first.

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

5 **10-16-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

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

15 (26) "Late enrollee" means an eligible employee or dependent
16 who requests enrollment in a group health benefit plan following the
17 initial enrollment period for which such individual is entitled to enroll
18 under the terms of the health benefit plan, if such initial enrollment period
19 is a period of at least thirty days. An eligible employee or dependent shall
20 not be considered a late enrollee if:

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

27 (II) A PERSON WHO BECOMES A DEPENDENT OF A COVERED PERSON

1 THROUGH A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE
2 22 OF TITLE 15, C.R.S., REQUESTS ENROLLMENT NO LATER THAN THIRTY
3 DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER OF THE
4 COVERED PERSON ELECTS TO COVER DESIGNATED BENEFICIARIES AS
5 DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE DATE
6 THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT IS
7 RECEIVED IN A TIMELY FASHION BEFORE SAID DATE.

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

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

1 the following standard health benefit plan design described in paragraph
2 (a) of this subsection (7.2) and the various options for the basic health
3 benefit plan design described in paragraph (b) of this subsection (7.2):

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

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

11 **12-34-109. Who may make anatomical gift of decedent's body**
12 **or part.** (a) Subject to subsections (b) and (c) of this section and unless
13 barred by section 12-34-107 or 12-34-108, an anatomical gift of a
14 decedent's body or part for purpose of transplantation, therapy, research,
15 or education may be made by any member of the following classes of
16 persons who is reasonably available, in the order of priority listed:

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

20 (2) The spouse of the decedent;

21 (2.5) A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A
22 DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT
23 PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BE AN
24 AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS OF THE
25 DECEDENT;

26 (3) Adult children of the decedent;

27 (4) Parents of the decedent;

- 1 (5) Adult siblings of the decedent;
- 2 (6) Adult grandchildren of the decedent;
- 3 (7) Grandparents of the decedent;
- 4 (8) An adult who exhibited special care and concern for the
- 5 decedent;
- 6 (9) The persons who were acting as the guardians of the person of
- 7 the decedent at the time of death; and
- 8 (10) Any other person having the authority to dispose of the
- 9 decedent's body.

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

12 **13-21-201. Damages for death.** (1) When any person dies from
13 any injury resulting from or occasioned by the negligence, unskillfulness,
14 or criminal intent of any officer, agent, servant, or employee while
15 running, conducting, or managing any locomotive, car, or train of cars, or
16 of any driver of any coach or other conveyance operated for the purpose
17 of carrying either freight or passengers for hire while in charge of the
18 same as a driver, and when any passenger dies from an injury resulting
19 from or occasioned by any defect or insufficiency in any railroad or any
20 part thereof, or in any locomotive or car, or other conveyance operated for
21 the purpose of carrying either freight or passengers for hire, the
22 corporation or individuals in whose employ any such officer, agent,
23 servant, employee, master, pilot, engineer, or driver is at the time such
24 injury is committed, or who owns any such railroad, locomotive, car, or
25 other conveyance operated for the purpose of carrying either freight or
26 passengers for hire at the time any such injury is received, and resulting
27 from or occasioned by the defect or insufficiency above described shall

1 forfeit and pay for every person and passenger so injured the sum of not
2 exceeding ten thousand dollars and not less than three thousand dollars,
3 which may be sued for and recovered:

4 (a) In the first year after such death:

5 (I) By the spouse of the deceased;

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

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

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

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

16 (A) By the spouse of the deceased;

17

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

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

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

24 (II) However, if the heir or heirs of the deceased commence an
25 action under the provisions of sub-subparagraph (B) of subparagraph (I)
26 of this paragraph (b), the spouse OR THE DESIGNATED BENEFICIARY OF THE
27 DECEASED, IF THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF

1 TITLE 15, C.R.S., WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS
2 SECTION, upon motion filed within ninety days after service of written
3 notice of the commencement of the action upon him THE SPOUSE OR
4 DESIGNATED BENEFICIARY, shall be allowed to join the action as a party
5 plaintiff.

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

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

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

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

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

8 **15-11-103. Share of heirs other than surviving spouse.** Any
9 part of the intestate estate not passing to the decedent's surviving spouse
10 under section 15-11-102, or the entire intestate estate if there is no
11 surviving spouse, passes in the following order to the individuals
12 designated who survive the decedent:

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

22 ~~(1)~~ (2) To the decedent's descendants per capita at each
23 generation;

24 ~~(2)~~ (3) If there is no surviving descendant, to the decedent's
25 parents equally if both survive, or to the decedent's surviving parent;

26 ~~(3)~~ (4) If there is no surviving descendant or surviving parent, to
27 the surviving descendants of the decedent's parents or either of them per

1 capita at each generation;

2 ~~(4)~~ (5) If there is no surviving descendant, surviving parent, or
3 surviving descendant of a parent, to the decedent's surviving
4 grandparents, or any of them, in equal shares;

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

9 ~~(6)~~ (7) If there is no surviving heir under subsections (1) to ~~(5)~~ (6)
10 of this section, and if a birth child or birth children file a claim for
11 inheritance with the court having probate jurisdiction for the decedent's
12 estate within ninety days of decedent's death, to the decedent's surviving
13 birth child or children per capita at each generation. For purposes of this
14 subsection ~~(6)~~ (7), the term "birth child" means a child who was born to,
15 but adopted away from, his or her natural parent.

16 ~~(7)~~ (8) If there is no surviving heir or birth child under subsections
17 (1) to ~~(6)~~ (7) of this section, and if a birth parent or birth parents file a
18 claim for inheritance with the court having probate jurisdiction for the
19 decedent's estate within ninety days of decedent's death, to the decedent's
20 birth parents equally if both survive, or to the surviving birth parent. For
21 purposes of this subsection ~~(7)~~ (8), the term "birth parent" means the
22 natural parent of a child who was born to, but adopted away from, the
23 natural parent.

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

26 **15-11-106. Per capita at each generation.** (2) **Decedent's**
27 **descendants.** If, under section 15-11-103 ~~(1)~~ (2), a decedent's intestate

1 estate or a part thereof passes "per capita at each generation" to the
2 decedent's descendants, the estate or part thereof is divided into as many
3 equal shares as there are (i) surviving descendants in the generation
4 nearest to the decedent which contains one or more surviving descendants
5 and (ii) deceased descendants in the same generation who left surviving
6 descendants, if any. Each surviving descendant in the nearest generation
7 is allocated one share. The remaining shares, if any, are combined and
8 then divided in the same manner among the surviving descendants of the
9 deceased descendants as if the surviving descendants who are allocated
10 a share and their surviving descendants had predeceased the decedent.

11 (3) **Descendants of parents or grandparents.** If, under section
12 15-11-103 ~~(3)~~ (4) or ~~(5)~~ (6), a decedent's intestate estate or a part thereof
13 passes "per capita at each generation" to the descendants of the decedent's
14 deceased parents or either of them, or to the descendants of the decedent's
15 deceased grandparents or any of them, the estate or part thereof is divided
16 into as many equal shares as there are (i) surviving descendants in the
17 generation nearest to the deceased parents or either of them, or the
18 deceased grandparents or any of them, that contains one or more
19 surviving descendants and (ii) deceased descendants in the same
20 generation who left surviving descendants, if any. Each surviving
21 descendant in the nearest generation is allocated one share. The
22 remaining shares, if any, are combined and then divided in the same
23 manner among the surviving descendants of the deceased descendants as
24 if the surviving descendants who were allocated a share and their
25 surviving descendants had predeceased the decedent.

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

1 **15-11-114. Parent and child relationship.** (2) For purposes of
2 intestate succession by, through, or from a person, an adopted individual
3 is the child of his or her adopting parent or parents and not of his or her
4 birth parents, except for inheritance rights as specified in section
5 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse
6 of either birth parent has no effect on the relationship between the child
7 and the birth parent whose spouse has adopted the child.

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

10 **15-12-203. Priority among persons seeking appointment as**
11 **personal representative.** (1) Whether the proceedings are formal or
12 informal, persons who are not disqualified have priority for appointment
13 in the following order:

14 (a) The person with priority as determined by a probated will
15 including a person nominated by a power conferred in a will;

16 (b) The surviving spouse of the decedent who is a devisee of the
17 decedent;

18 (b.5) A PERSON NOMINATED TO BE A PERSONAL REPRESENTATIVE
19 BY A POWER CONFERRED IN A DESIGNATED BENEFICIARY AGREEMENT;

20 (c) Other devisees of the decedent;

21 (d) The surviving spouse of the decedent;

22 (e) Other heirs of the decedent;

23 (f) Forty-five days after the death of the decedent, any creditor.

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

26 **15-14-310. Who may be guardian - priorities - prohibition of**
27 **dual roles.** (1) Subject to subsection (4) of this section, the court in

1 appointing a guardian shall consider persons otherwise qualified in the
2 following order of priority:

3 (a) A guardian, other than a temporary or emergency guardian,
4 currently acting for the respondent in this state or elsewhere;

5 (b) A person nominated as guardian by the respondent, including
6 the respondent's specific nomination of a guardian made in a durable
7 power of attorney OR IN A DESIGNATED BENEFICIARY AGREEMENT MADE
8 PURSUANT TO ARTICLE 22 OF THIS TITLE;

9 (c) An agent appointed by the respondent under a medical durable
10 power of attorney pursuant to section 15-14-506;

11 (d) An agent appointed by the respondent under a general durable
12 power of attorney;

13 (e) The spouse of the respondent or a person nominated by will or
14 other signed writing of a deceased spouse;

15 (f) An adult child of the respondent;

16 (g) A parent of the respondent or an individual nominated by will
17 or other signed writing of a deceased parent; and

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

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

22 **15-14-413. Who may be conservator - priorities - prohibition**
23 **of dual roles.** (1) Except as otherwise provided in subsection (4) of this
24 section, the court, in appointing a conservator, shall consider persons
25 otherwise qualified in the following order of priority:

26 (a) A conservator, guardian of the estate, or other like fiduciary
27 appointed or recognized by an appropriate court of any other jurisdiction

1 in which the protected person resides;

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

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

9 (d) The spouse of the respondent;

10 (e) An adult child of the respondent;

11 (f) A parent of the respondent; and

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

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

16 **15-18.5-103. Proxy decision-makers for medical treatment**
17 **authorized.** (1) A health care provider or health care facility may rely,
18 in good faith, upon the medical treatment decision of a proxy
19 decision-maker selected in accordance with subsection (4) of this section
20 if an adult patient's attending physician determines that such patient lacks
21 the decisional capacity to provide informed consent to or refusal of
22 medical treatment and no guardian with medical decision-making
23 authority, agent appointed in a medical durable power of attorney,
24 PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO
25 ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS
26 TITLE, or other known person has the legal authority to provide such
27 consent or refusal on the patient's behalf.

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

3 **15-18.5-104. Surrogate decision-makers for health care**
4 **benefits.** (1) A proxy decision-maker for medical treatment selected in
5 accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A
6 DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE
7 DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have
8 authority to make health care benefit decisions on behalf of an adult
9 patient and may be known additionally as a surrogate decision-maker for
10 health care benefits.

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

13 **15-19-103. Definitions.** As used in this article, unless the context
14 otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

24 (g) (Deleted by amendment, L. 2006, p. 900, § 5, effective August
25 7, 2006.)

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

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

3 30-10-406. County clerk and recorder - duties - filing
4 requirements. (4) THE COUNTY CLERK AND RECORDER SHALL PERFORM
5 THE DUTIES PRESCRIBED IN ARTICLE 22 OF TITLE 15, C.R.S., WITH RESPECT
6 TO THE RECORDING AND PROCESSING OF DESIGNATED BENEFICIARY
7 AGREEMENTS AND REVOCATIONS OF SUCH AGREEMENTS.

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

10 25-1-120. Nursing facilities - rights of patients. (1) The
11 department shall require all skilled nursing facilities and intermediate care
12 facilities to adopt and make public a statement of the rights and
13 responsibilities of the patients who are receiving treatment in such
14 facilities and to treat their patients in accordance with the provisions of
15 said statement. The statement shall ensure each patient the following:

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

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

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

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

16 **SECTION 20. Effective date.** This act shall take effect July 1,
17 2009.

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