

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.*

HOUSE
3rd Reading Unamended
February 24, 2009

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

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

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

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

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

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

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

26 **15-22-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

1 PLAN;

2 (h) A BENEFICIARY DESIGNATION FOR A DEPOSIT OR ACCOUNT,
3 INCLUDING BUT NOT LIMITED TO DEMAND, SAVINGS, AND TIME DEPOSIT
4 ACCOUNTS;

5 (i) A DECLARATION AS TO MEDICAL TREATMENT EXECUTED
6 PURSUANT TO ARTICLE 18 OF THIS TITLE;

7 (j) A DECLARATION AS TO DISPOSITION OF LAST REMAINS
8 EXECUTED PURSUANT TO ARTICLE 19 OF THIS TITLE; OR

9 (k) A MARRIAGE LICENSE.

10 **15-22-104. Requirements for a valid designated beneficiary**

11 **agreement.** (1) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
12 LEGALLY RECOGNIZED IF:

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

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

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

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

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

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

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

1 EFFECTIVE DATE OF THE AGREEMENT AND HOW TO RECORD THE
2 AGREEMENT, THE SIGNATURES FOR THE TWO PARTIES, AND THE
3 ACKNOWLEDGMENTS FOR THE NOTARY PUBLIC.

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

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

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

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

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

16 **15-22-105. Effects and applicability of a designated**
17 **beneficiary agreement.** (1) A PERSON NAMED AS A DESIGNATED
18 BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT SHALL BE
19 ENTITLED TO EXERCISE THE RIGHTS AND PROTECTIONS SPECIFIED IN THE
20 AGREEMENT BY VIRTUE OF HAVING BEEN SO NAMED.

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

26 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL ENTITLE THE
27 PARTIES TO EXERCISE THE FOLLOWING RIGHTS AND ENJOY THE FOLLOWING

1 PROTECTIONS, UNLESS SPECIFICALLY EXCLUDED FROM THE DESIGNATED
2 BENEFICIARY AGREEMENT:

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

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

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

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

16 (II) LOCAL GOVERNMENT FIREFIGHTER AND POLICE PENSIONS;

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

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

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

24 (e) THE RIGHT TO VISITATION BY THE OTHER DESIGNATED
25 BENEFICIARY IN A HOSPITAL, NURSING HOME, HOSPICE, OR SIMILAR
26 HEALTHCARE FACILITY IN WHICH A PARTY TO A DESIGNATED BENEFICIARY
27 RESIDES OR IS RECEIVING CARE, INCLUDING THE RIGHT TO INITIATE A

1 FORMAL COMPLAINT ALLEGING A VIOLATION OF THE RIGHTS OF NURSING
2 HOME PATIENTS SPECIFIED IN SECTION 25-1-120, C.R.S.:

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

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

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

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

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

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

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

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

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

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

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

16 **15-22-106. Statutory form of a designated beneficiary**
17 **agreement.** (1) THE FOLLOWING STATUTORY FORM SHALL BE THE
18 STANDARD FORM FOR A DESIGNATED BENEFICIARY AGREEMENT:

19 **DESIGNATED BENEFICIARY AGREEMENT**

20 **DISCLAIMER**

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

24 **THIS DESIGNATED BENEFICIARY AGREEMENT IS OPERATIVE IN**
25 **THE ABSENCE OF OTHER ESTATE PLANNING DOCUMENTS AND**
26 **WILL BE SUPERSEDED AND SET ASIDE TO THE EXTENT IT**
27 **CONFLICTS WITH VALID INSTRUMENTS SUCH AS A WILL, POWER**

1 OF ATTORNEY, OR BENEFICIARY DESIGNATION ON AN INSURANCE
2 POLICY OR PENSION PLAN. THIS DESIGNATED BENEFICIARY
3 AGREEMENT IS SUPERSEDED BY SUCH OTHER DOCUMENTS AND
4 DOES NOT CAUSE ANY CHANGES TO BE MADE TO THOSE
5 DOCUMENTS OR DESIGNATIONS. THE PARTIES UNDERSTAND THAT
6 EXECUTING AND SIGNING THIS AGREEMENT IS NOT SUFFICIENT TO
7 DESIGNATE THE OTHER PARTY FOR PURPOSES OF ANY INSURANCE
8 POLICY, PENSION PLAN, PAYABLE UPON DEATH DESIGNATION OR
9 MANNER IN WHICH TITLE TO PROPERTY IS HELD AND THAT
10 ADDITIONAL ACTION WILL BE REQUIRED TO MAKE OR CHANGE
11 SUCH DESIGNATIONS. THE PARTIES UNDERSTAND THAT THIS
12 DESIGNATED BENEFICIARY AGREEMENT MAY BE ONE COMPONENT
13 OF ESTATE PLANNING INSTRUCTIONS AND THAT THEY ARE
14 ENCOURAGED TO CONSULT AN ATTORNEY TO ENSURE THEIR
15 ESTATE PLANNING WISHES ARE ACCOMPLISHED.

16 We, _____, (INSERT FULL NAME AND ADDRESS) REFERRED TO
17 AS PARTY A, AND _____, (INSERT FULL NAME AND ADDRESS)
18 REFERRED TO AS PARTY B, HEREBY DESIGNATE EACH OTHER AS THE
19 OTHER'S DESIGNATED BENEFICIARY WITH THE FOLLOWING RIGHTS AND
20 PROTECTIONS, GRANTED OR WITHHELD AS INDICATED BY OUR INITIALS:

21 TO GRANT ONE OR MORE OF THE RIGHTS OR
22 PROTECTIONS SPECIFIED IN THIS FORM, INITIAL
23 THE LINE TO THE LEFT OF EACH RIGHT OR
24 PROTECTION YOU ARE GRANTING. TO WITHHOLD
25 A RIGHT OR PROTECTION, INITIAL THE LINE TO
26 THE RIGHT OF EACH RIGHT OR PROTECTION YOU
27 ARE WITHHOLDING.

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

1 PLAN;

2 _____ THE RIGHT TO PETITION FOR AND HAVE _____

3 PRIORITY FOR APPOINTMENT AS A

4 CONSERVATOR, GUARDIAN, OR PERSONAL

5 REPRESENTATIVE FOR ME;

6 _____ THE RIGHT TO VISIT ME IN A HOSPITAL, _____

7 NURSING HOME, HOSPICE, OR SIMILAR

8 HEALTH CARE FACILITY IN WHICH A PARTY TO

9 A DESIGNATED BENEFICIARY RESIDES OR IS

10 RECEIVING CARE;

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 _____ THE RIGHT TO ACT AS A PROXY _____

17 DECISION-MAKER OR SURROGATE

18 DECISION-MAKER TO MAKE MEDICAL CARE

19 DECISIONS FOR ME PURSUANT TO SECTION

20 15-18.5-103 OR 15-18.5-104, COLORADO

21 REVISED STATUTES;

22 _____ THE RIGHT TO NOTICE OF THE WITHHOLDING _____

23 OR WITHDRAWAL OF LIFE-SUSTAINING

24 PROCEDURES FOR ME PURSUANT TO SECTION

25 15-18-107, COLORADO REVISED STATUTES;

26 _____ THE RIGHT TO CHALLENGE THE VALIDITY OF _____

27 A DECLARATION AS TO MEDICAL OR SURGICAL

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

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

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

8 _____
9 SIGNATURE OF DESIGNATED BENEFICIARY SIGNATURE OF DESIGNATED BENEFICIARY

10 STATE OF COLORADO

11 COUNTY OF _____

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

14 BY
15 _____

16 MY COMMISSION EXPIRES _____

17 [SEAL]

18 _____
19 NOTARY PUBLIC

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

25 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED
26 TO EXTEND ALL OF THE RIGHTS AND PROTECTIONS LISTED IN THE
27 STATUTORY FORM UNLESS THE PARTIES TO THE AGREEMENT EXPLICITLY

1 EXCLUDE A RIGHT OR PROTECTION.

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

7 **15-22-107. Recording - duties of the county clerk and recorder**

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

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

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


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

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

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

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

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

20 
21 **15-22-109. Affirmation of validity of designated beneficiary**
22 **agreement.** A PERSON EXERCISING RIGHTS OR PROTECTIONS PURSUANT
23 TO A DESIGNATED BENEFICIARY AGREEMENT SHALL AFFIRM THE VALIDITY
24 OF A DESIGNATED BENEFICIARY AGREEMENT AND DISCLOSE ANY
25 KNOWLEDGE OF ANY SUPERSEDING LEGAL DOCUMENTS.

26 **15-22-110. Reliance - immunity.** A THIRD PARTY WHO ACTS IN
27 GOOD FAITH RELIANCE ON THE AFFIRMATION OF THE EXISTENCE OF A

1 VALID DESIGNATED BENEFICIARY AGREEMENT SHALL NOT BE SUBJECT TO
2 CIVIL LIABILITY OR ADMINISTRATIVE DISCIPLINE FOR SUCH RELIANCE.

3 **15-22-111. Revocation of a designated beneficiary agreement.**

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

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

25 (3) A DESIGNATED BENEFICIARY AGREEMENT SHALL BE DEEMED
26 REVOKED UPON THE MARRIAGE OF EITHER PARTY. IN THE CASE OF A
27 COMMON LAW MARRIAGE, A DESIGNATED BENEFICIARY AGREEMENT SHALL

1 BE DEEMED REVOKED AS OF THE DATE THE COURT DETERMINES THAT A
2 VALID COMMON LAW MARRIAGE EXISTS.

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

5 **REVOCATION**
6 **OF DESIGNATED BENEFICIARY AGREEMENT**

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

20 _____
21 NAME DATE

22 STATE OF COLORADO
23 COUNTY OF _____

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

26 BY
27 _____

1 MY COMMISSION EXPIRES _____

2 [SEAL]

3 _____

4 NOTARY PUBLIC

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

11 CLERK AND RECORDER OF
12 _____ COUNTY

13 BY: _____

14 **15-22-112. Death of a designated beneficiary - effect on**
15 **designated beneficiary agreement.** (1) A DESIGNATED BENEFICIARY
16 AGREEMENT IS TERMINATED UPON THE DEATH OF EITHER OF THE PARTIES
17 TO THE DESIGNATED BENEFICIARY AGREEMENT; HOWEVER, A RIGHT OR
18 POWER WHICH A DESIGNATED BENEFICIARY AGREEMENT CONFERRED UPON
19 A DESIGNATED BENEFICIARY SURVIVES THE DEATH OF THE OTHER
20 DESIGNATED BENEFICIARY.

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

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

27 **8-41-501. Persons presumed wholly dependent.** (1) For the

1 purposes of articles 40 to 47 of this title, the following described persons
2 shall be presumed to be wholly dependent (however, such presumption
3 may be rebutted by competent evidence):

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

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

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

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

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

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

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

3 **10-16-102. Definitions.** As used in this article, unless the context
4 otherwise requires:

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

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

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

25 (II) A PERSON WHO BECOMES A DEPENDENT OF A COVERED PERSON
26 THROUGH A DESIGNATED BENEFICIARY AGREEMENT PURSUANT TO ARTICLE
27 22 OF TITLE 15, C.R.S., REQUESTS ENROLLMENT NO LATER THAN THIRTY

1 DAYS AFTER BECOMING SUCH A DEPENDENT, AND THE EMPLOYER OF THE
2 COVERED PERSON ELECTS TO COVER DESIGNATED BENEFICIARIES AS
3 DEPENDENTS. IN SUCH CASE, COVERAGE SHALL COMMENCE ON THE DATE
4 THE PERSON BECOMES A DEPENDENT IF A REQUEST FOR ENROLLMENT IS
5 RECEIVED IN A TIMELY FASHION BEFORE SAID DATE.

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

8 **10-16-105. Small group sickness and accident insurance -**
9 **guaranteed issue - mandated provisions for basic health benefit plans**
10 **- rules - benefit design advisory committee - repeal.** (7.2) The
11 commissioner shall promulgate rules to implement a basic health benefit
12 plan and a standard health benefit plan to be offered by each small
13 employer carrier as a condition of transacting business in this state. The
14 commissioner shall survey small group carriers annually to determine the
15 range of health benefit plans available. The commissioner shall
16 implement a basic plan that approximates the lowest level of coverage
17 offered in small group health benefit plans. A basic health benefit plan
18 may be based on the latest medical evidence. The commissioner shall
19 implement a standard plan that approximates the average level of
20 coverage offered in small group health benefit plans. In determining
21 levels of coverage, the commissioner shall consider factors such as
22 coinsurance, copayments, deductibles, out-of-pocket maximums, and
23 covered benefits. The commissioner shall amend the rules as necessary
24 to implement the basic and standard health benefit plans. The rules shall
25 be in conformity with article 4 of title 24, C.R.S., and shall incorporate
26 the following standard health benefit plan design described in paragraph
27 (a) of this subsection (7.2) and the various options for the basic health

1 benefit plan design described in paragraph (b) of this subsection (7.2):

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

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

9 **12-34-109. Who may make anatomical gift of decedent's body**
10 **or part.** (a) Subject to subsections (b) and (c) of this section and unless
11 barred by section 12-34-107 or 12-34-108, an anatomical gift of a
12 decedent's body or part for purpose of transplantation, therapy, research,
13 or education may be made by any member of the following classes of
14 persons who is reasonably available, in the order of priority listed:

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

18 (2) The spouse of the decedent;

19 (2.5) A PERSON WHO IS DESIGNATED BY THE DECEDENT AS A
20 DESIGNATED BENEFICIARY IN A DESIGNATED BENEFICIARY AGREEMENT
21 PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., WITH THE RIGHT TO BE AN
22 AGENT TO MAKE, REVOKE, OR OBJECT TO ANATOMICAL GIFTS OF THE
23 DECEDENT;

24 (3) Adult children of the decedent;

25 (4) Parents of the decedent;

26 (5) Adult siblings of the decedent;

27 (6) Adult grandchildren of the decedent;

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

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

10 **13-21-201. Damages for death.** (1) When any person dies from
11 any injury resulting from or occasioned by the negligence, unskillfulness,
12 or criminal intent of any officer, agent, servant, or employee while
13 running, conducting, or managing any locomotive, car, or train of cars, or
14 of any driver of any coach or other conveyance operated for the purpose
15 of carrying either freight or passengers for hire while in charge of the
16 same as a driver, and when any passenger dies from an injury resulting
17 from or occasioned by any defect or insufficiency in any railroad or any
18 part thereof, or in any locomotive or car, or other conveyance operated for
19 the purpose of carrying either freight or passengers for hire, the
20 corporation or individuals in whose employ any such officer, agent,
21 servant, employee, master, pilot, engineer, or driver is at the time such
22 injury is committed, or who owns any such railroad, locomotive, car, or
23 other conveyance operated for the purpose of carrying either freight or
24 passengers for hire at the time any such injury is received, and resulting
25 from or occasioned by the defect or insufficiency above described shall
26 forfeit and pay for every person and passenger so injured the sum of not
27 exceeding ten thousand dollars and not less than three thousand dollars,

1 which may be sued for and recovered:

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

3 (I) By the spouse of the deceased;

4 (II) Upon the written election of the spouse, by the spouse and the

5 heir or heirs of the deceased;

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

7 of the deceased; or

8 (IV) If there is no spouse, by the DESIGNATED BENEFICIARY, IF

9 THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.,

10 WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION, AND IF

11 THERE IS NO DESIGNATED BENEFICIARY, BY THE heir or heirs of the

12 deceased;

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

14 (A) By the spouse of the deceased;

15 (A.5) BY THE DESIGNATED BENEFICIARY OF THE DECEASED IF

16 THERE IS ONE DESIGNATED PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.,

17 WITH THE RIGHT TO BRING AN ACTION PURSUANT TO THIS SECTION;

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

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

20 (II) However, if the heir or heirs of the deceased commence an

21 action under the provisions of sub-subparagraph (B) of subparagraph (I)

22 of this paragraph (b), the spouse, upon motion filed within ninety days

23 after service of written notice of the commencement of the action upon

24 him, shall be allowed to join the action as a party plaintiff.

25 (c) (I) If the deceased is an unmarried minor without descendants

26 or an unmarried adult without descendants AND WITHOUT A DESIGNATED

27 BENEFICIARY PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S., by the father

1 or mother who may join in the suit. Except as provided in subparagraphs
2 (II) and (III) of this paragraph (c), the father and mother shall have an
3 equal interest in the judgment, or if either of them is dead, then the
4 surviving parent shall have an exclusive interest in the judgment.

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

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

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

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

27 **15-11-103. Share of heirs other than surviving spouse.** Any

1 part of the intestate estate not passing to the decedent's surviving spouse
2 under section 15-11-102, or the entire intestate estate if there is no
3 surviving spouse, passes in the following order to the individuals
4 designated who survive the decedent:

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

14 ~~(1)~~ (2) To the decedent's descendants per capita at each
15 generation;

16 ~~(2)~~ (3) If there is no surviving descendant, to the decedent's
17 parents equally if both survive, or to the decedent's surviving parent;

18 ~~(3)~~ (4) If there is no surviving descendant or surviving parent, to
19 the surviving descendants of the decedent's parents or either of them per
20 capita at each generation;

21 ~~(4)~~ (5) If there is no surviving descendant, surviving parent, or
22 surviving descendant of a parent, to the decedent's surviving
23 grandparents, or any of them, in equal shares;

24 ~~(5)~~ (6) If there is no surviving descendant, surviving parent,
25 surviving descendant of a parent, or surviving grandparent, to the
26 surviving descendants of the decedent's grandparents per capita at each
27 generation;

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

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

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

18 **15-11-106. Per capita at each generation.** (2) **Decedent's**
19 **descendants.** If, under section 15-11-103 ~~(1)~~ (2), a decedent's intestate
20 estate or a part thereof passes "per capita at each generation" to the
21 decedent's descendants, the estate or part thereof is divided into as many
22 equal shares as there are (i) surviving descendants in the generation
23 nearest to the decedent which contains one or more surviving descendants
24 and (ii) deceased descendants in the same generation who left surviving
25 descendants, if any. Each surviving descendant in the nearest generation
26 is allocated one share. The remaining shares, if any, are combined and
27 then divided in the same manner among the surviving descendants of the

1 deceased descendants as if the surviving descendants who are allocated
2 a share and their surviving descendants had predeceased the decedent.

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

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

20 **15-11-114. Parent and child relationship.** (2) For purposes of
21 intestate succession by, through, or from a person, an adopted individual
22 is the child of his or her adopting parent or parents and not of his or her
23 birth parents, except for inheritance rights as specified in section
24 15-11-103 ~~(6)~~ and (7) AND (8), but the adoption of a child by the spouse
25 of either birth parent has no effect on the relationship between the child
26 and the birth parent whose spouse has adopted the child.

27 **SECTION 10.** 15-12-203 (1), Colorado Revised Statutes, is

1 amended to read:

2 **15-12-203. Priority among persons seeking appointment as**
3 **personal representative.** (1) Whether the proceedings are formal or
4 informal, persons who are not disqualified have priority for appointment
5 in the following order:

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

8 (b) The surviving spouse of the decedent who is a devisee of the
9 decedent;

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

12 (c) Other devisees of the decedent;

13 (d) The surviving spouse of the decedent;

14 (e) Other heirs of the decedent;

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

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

18 **15-14-310. Who may be guardian - priorities - prohibition of**
19 **dual roles.** (1) Subject to subsection (4) of this section, the court in
20 appointing a guardian shall consider persons otherwise qualified in the
21 following order of priority:

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

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

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

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

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

7 (f) An adult child of the respondent;

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

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

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

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

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

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

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

- 1 (d) The spouse of the respondent;
- 2 (e) An adult child of the respondent;
- 3 (f) A parent of the respondent; and
- 4 (g) An adult with whom the respondent has resided for more than
- 5 six months immediately before the filing of the petition.

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

8 **15-18.5-103. Proxy decision-makers for medical treatment**
9 **authorized.** (1) A health care provider or health care facility may rely,
10 in good faith, upon the medical treatment decision of a proxy
11 decision-maker selected in accordance with subsection (4) of this section
12 if an adult patient's attending physician determines that such patient lacks
13 the decisional capacity to provide informed consent to or refusal of
14 medical treatment and no guardian with medical decision-making
15 authority, agent appointed in a medical durable power of attorney,
16 PERSON DESIGNATED AS A DESIGNATED BENEFICIARY WITH THE RIGHT TO
17 ACT AS A PROXY DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS
18 TITLE, or other known person has the legal authority to provide such
19 consent or refusal on the patient's behalf.

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

22 **15-18.5-104. Surrogate decision-makers for health care**
23 **benefits.** (1) A proxy decision-maker for medical treatment selected in
24 accordance with section 15-18.5-103 OR A PERSON DESIGNATED AS A
25 DESIGNATED BENEFICIARY WITH THE RIGHT TO ACT AS A SURROGATE
26 DECISION-MAKER PURSUANT TO ARTICLE 22 OF THIS TITLE shall have
27 authority to make health care benefit decisions on behalf of an adult

1 patient and may be known additionally as a surrogate decision-maker for
2 health care benefits.

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

5 **15-19-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

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

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

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

20 **15-19-106. Right to dispose of remains.** (1) Subject to section
21 15-19-105 (2), the right to control disposition of the last remains or
22 ceremonial arrangements of a decedent vests in and devolves upon the
23 following persons, at the time of the decedent's death, in the following
24 order:

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

27 (b) (I) Either the appointed personal representative or special

1 administrator of the decedent's estate if such person has been appointed;

2 or

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

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

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

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

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

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

16 (g) (Deleted by amendment, L. 2006, p. 900, § 5, effective August
17 7, 2006.)

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

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

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

27 **SECTION 18. 25-1-120 (1) (1) and (3) (a), Colorado Revised**

1 Statutes, are amended to read:

2 **25-1-120. Nursing facilities - rights of patients.** (1) The
3 department shall require all skilled nursing facilities and intermediate care
4 facilities to adopt and make public a statement of the rights and
5 responsibilities of the patients who are receiving treatment in such
6 facilities and to treat their patients in accordance with the provisions of
7 said statement. The statement shall ensure each patient the following:

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

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

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

1 improper treatment, condition, or violation of rights by the facility or its
2 staff.

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

8 **SECTION 20. Effective date.** This act shall take effect July 1,
9 2009.

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