



Planning for the Future

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Topics Covered in this Presentation

1. What is Estate Planning?
2. How is property transferred?
3. Who can make decisions on your behalf?
4. Managing Digital Assets

What is Estate Planning?

Estate Planning is "A legal and financial process to manage your assets and healthcare decisions during life and after death."

It ensures your wishes are honored, not just with your property, but with your medical care and care after death.

It helps avoid family disputes and can lower taxes for your loved ones.

How is Property Transferred?

Topics:

- | | |
|---------------------------------|-------------------|
| 1. Titled vs. Untitled Property | 5. Probate |
| 2. Beneficiary Designations | 6. Debt |
| 3. Wills | 7. Taxes |
| 4. Trusts | 8. Digital Assets |

Titled vs Untitled Property

Titled Property: Property that has formal ownership documentation, such as deeds, titles, or registrations.

Examples:

- Real Estate (homes, land)
- Vehicles (cars, boats)

Untitled Property: Assets without formal ownership documentation.

Examples:

- Household items (furniture, clothing)
- Jewelry and collectibles
- Digital assets (photos, emails, social media)
- Cash or personal loans
- Sentimental items (letters, heirlooms)

What Happens to Titled Property Upon Death?

Ownership Transfer Depends on Title Type:

- **Joint Tenancy with Right of Survivorship:** Automatically passes to the surviving owner.
- **Tenancy in Common:** Deceased's share goes through probate.
- **Transfer-on-Death (TOD)** or **Payable-on-Death (POD):** Passes directly to named beneficiary, bypassing probate.
- **Sole Ownership:** Goes through probate unless placed in a trust.

Beneficiary Designations Override Wills: Accounts with named beneficiaries (e.g., life insurance, retirement accounts) transfer directly to those individuals.

Trust-Owned Property: If titled in the name of a trust, it avoids probate and is distributed according to the trust terms.

What Happens to Untitled Property Upon Death?

Distributed According to the Will: If the deceased had a will, untitled property is distributed as specified.

Intestate Succession: If no will exists, Colorado's intestacy laws determine who inherits (typically spouse, children, or other relatives).

Valuation and Inventory: The personal representative must inventory and appraise these items for probate purposes.

Potential for Disputes:

- Lack of documentation can lead to disagreements among heirs.
- Clear instructions in a will or letter of intent can help avoid conflict.

Beneficiary Designations

Accounts Covered: Retirement plans, life insurance, bank accounts.

Supersede Wills: These designations override your will.

Regular Updates: After marriage, divorce, or death of a beneficiary.

Tip: Review annually to ensure accuracy.

Wills

A will (or "last will and testament") is a legal document that outlines how a person's assets should be distributed after death. It can also name guardians for minor children and designate a personal representative (executor) to manage the estate.

Function: Specifies how your property and assets should be distributed.

Executor/Personal Representative: Person responsible for carrying out your instructions as well as filing with the probate court, and managing estate assets, paying debts and taxes. Should be named in the will, otherwise they will be court appointed. Does not need to be a CO resident.

Guardianship: Can name guardians for minor children or dependents.

Update Regularly: Should be revised after major life events (e.g., marriage, divorce, death of a beneficiary).

Legal Requirements for a Valid Will in Colorado

According to Colorado Revised Statutes § 15-11-501 to § 15-11-504

1. Age and Capacity:

- The testator must be **at least 18 years old**.
- Must be of **sound mind**, meaning they understand:
 - What assets they own
 - Who their natural heirs are
 - The legal effect of signing a will

2. Written Format:

- The will must be **in writing**—either typed or handwritten.
- Colorado also allows **electronic wills**, though they are less common and more complex to execute.

3. Signature:

- The testator must **sign the will**, or direct someone else to sign it in their presence.

4. Witnesses or Notary:

- Either:
 - a. **Two competent witnesses** must sign the will (they can be beneficiaries), or
 - b. The testator may **acknowledge the will before a notary**.
- A **self-proving affidavit** can be added to simplify probate by avoiding the need to contact witnesses later.

Attested Will (Most Common)

- Most common type.
- Typed or printed.
- Signed by the testator and two witnesses.
- Provides strong legal clarity and is least likely to be challenged.
- Speak with an attorney to draft your will.

Holographic Will (Handwritten)

A **holographic will** is a will that is written entirely or mostly in the testator's own handwriting and does not require witnesses or notarization to be valid in Colorado.

Must be:

- Handwritten by the Testator
- Signed by the Testator
- With the intent to create a will

When to Use a Holographic Will:

- In emergencies or when immediate action is needed
- When access to legal services is limited
- As a temporary measure until a formal will can be created

While Colorado recognizes holographic wills, they are **not ideal for long-term estate planning**. A professionally drafted will offers more clarity, legal protection, and peace of mind.

Holographic Will

Legal Requirements for a Valid Holographic Will in Colorado

1. Handwritten by the Testator:

- The **material provisions** (e.g., who gets what) must be in the testator's handwriting.
- The entire document does **not** need to be handwritten, but the key parts must be.

2. Signed by the Testator:

- The testator must sign the will.
- If the testator is unable to sign, someone else may do so **in their presence and at their direction**.

3. Intent to Create a Will:

- The document must clearly show that the testator intended it to serve as their will.
- This intent can be proven through the wording or **extrinsic evidence** (e.g., letters, notes, or testimony).

4. No Witnesses or Notary Required:

- Unlike formal wills, holographic wills do **not** require witnesses or notarization to be valid.

Holographic Will

Risks and Challenges:

- **Ambiguity:** Informal language or unclear instructions can lead to disputes.
- **Omissions:** May lack important legal provisions (e.g., naming an executor).
- **Legal Challenges:** Without witnesses, it may be harder to prove authenticity or intent.
- **Probate Delays:** Courts may require additional evidence to validate the will.

Best Practices for Holographic Wills:

- **Be Clear and Specific:** Use full names, describe assets in detail, and avoid vague terms.
- **Date the Document:** While not required, dating helps establish the will's timeline.
- **Store Safely:** Keep it in a secure, accessible place and inform a trusted person of its location.
- **Consider a Backup:** Even if you write a holographic will, consider having a formal will drafted later.

Oral Will

Also called a **Nuncupative Will**

ORAL WILLS ARE NOT VALID IN COLORADO

What a Will Does NOT Cover

Some assets bypass the will and are distributed directly:

- Jointly owned property (e.g., joint tenancy with right of survivorship)
- Payable-on-death (POD) accounts
- Transfer-on-death (TOD) deeds
- Life insurance and retirement accounts with named beneficiaries
- Trust assets

Refer back to the slides on Titled vs. Untitled Property, as well as Beneficiary Designation.

Best Practices for Creating a Will

- Use clear, specific language to avoid ambiguity.
- Name alternate beneficiaries and executors.
- Include a letter of intent to explain decisions if needed.
- Review and update your will regularly—especially after major life events.
- Store your will in a safe, accessible place and inform trusted individuals of its location.

Revoking or Amending a Will

You can revoke or change your will at any time by:

- **Creating a new will** that contradicts or explicitly revokes the old one.
- **Physically destroying** the old will (burning, tearing, etc.) with intent to revoke.
- **Adding a codicil** (an amendment) that follows the same formalities as the original will.

Dying Without a Will

When a person dies **without a valid will**, they are considered to have died **intestate**. In such cases, Colorado law (under the Uniform Probate Code) determines how the estate is distributed. The process is overseen by the probate court and follows a strict hierarchy of heirs.

Hierarchy:

1. Surviving Spouse
2. Children or Descendants
3. Parents
4. Siblings and their Descendants
5. Extended Family
6. Escheats to the State

Important Notes

- **Unmarried partners** and **close friends** are **not recognized** under intestate laws.
- **Adopted children** are treated the same as biological children.
- **Stepchildren** are **not automatically included** unless legally adopted.
- **Children born via assisted reproduction or surrogacy** may have specific legal considerations.

Dying Without a Will – Hierarchy of Heirs in Colorado

1. Surviving Spouse

a. No children or parents: Spouse inherits **everything**.

b. Children only from the marriage: Spouse inherits **everything**.

c. Children from a previous relationship:

- Spouse receives **\$150,000 + 50%** of the remaining estate.
- Children from the prior relationship inherit the rest.

d. Spouse has children from another relationship:

- Spouse receives **\$225,000 + 50%** of the remaining estate.
- Deceased's children inherit the other half.

e. Surviving spouse and parents:

- Spouse receives **\$300,000 + 75%** of the remaining estate.
- Parents receive the remaining 25%.

2. Children or Descendants.

- If no spouse survives, **children inherit everything**, divided equally.
- If a child is deceased, their share passes to their children (grandchildren), per stirpes.

3. Parents

- If no spouse or children survive, **parents inherit equally**.
- If only one parent survives, they inherit the full estate.

4. Siblings and Their Descendants

- If no spouse, children, or parents survive, **siblings inherit equally**.
- If a sibling is deceased, their children (nieces/nephews) inherit their share.

5. Extended Family. If no immediate family survives, the estate passes to:

- Grandparents
- Aunts and uncles
- Cousins

6. Escheat to the State. If no eligible relatives can be found, the estate **escheats** to the **State of Colorado**.

Trusts

Revocable Trusts: Can be changed or canceled; useful for managing assets during your lifetime.

Irrevocable Trusts: Cannot be changed; may offer tax benefits and asset protection.

Special Needs Trusts: Protect benefits for disabled beneficiaries.

Benefits: Avoid probate, maintain privacy, and manage complex family situations.

Probate

Probate is the Court-supervised process of validating a will and distributing assets. Ensures debts and taxes are paid. Resolves disputes among heirs or creditors. Transfers legal title of assets. Validates the will.

Drawbacks: Can be slow, expensive, and public.

Avoidance Strategies: Use trusts, joint ownership, and payable-on-death accounts.

Legal Help: A probate attorney can simplify the process.

Tips:

- Keep estate documents organized and accessible
- Review beneficiary designations annually
- Consider a trust for privacy and probate avoidance
- Consult an estate attorney for complex situations

Types of Probate in Colorado

1. Informal Probate

- Most common and simplest
- Used when there's a valid will and no disputes
- Minimal court involvement

2. Formal Probate

- Required when there are disputes or unclear terms
- Court supervises every step
- More time-consuming and costly

3. Small Estate Procedures

- For estates under **\$80,000** and no real estate
- Assets can be claimed using an **affidavit**, avoiding full probate

When is Probate Required?

Probate is typically required if:

- The deceased owned **real estate** solely in their name
- The estate's value exceeds **\$80,000** (as of July 2023).
- There is **no valid will**, or disputes arise

Steps in Probate

1. File a Petition for Probate

- Initiates the process in the county court where the deceased lived
- Includes the will (if available), death certificate, and list of assets and heirs

2. Appoint a Personal Representative

- If named in the will, the court confirms the executor
- If no will, the court appoints an administrator
- This person manages the estate throughout probate

3. Notify Heirs and Creditors

- Formal notice is sent to all heirs and published in a local newspaper
- Creditors have **3-4 months** to file claims

4. Inventory and Appraise Assets

- Includes real estate, bank accounts, investments, vehicles, and personal property
- May require professional appraisals

5. Pay Debts and Taxes

- Funeral expenses, medical bills, taxes, and valid creditor claims are paid from the estate
- Must be completed before any distribution

6. Distribute Remaining Assets

- Assets are distributed according to the will
- If no will, Colorado's **intestacy laws** determine who inherits

7. Close the Estate

- Final accounting is submitted to the court
- Estate is officially closed once all obligations are met

Avoiding Probate

- Living Trusts
- Joint Ownership
- Payable-On-Death (POD) Accounts
- Transfer-On-Death (TOD) Accounts
- Beneficiary Designations

Debt

When someone passes away, their debts **do not automatically disappear**.
However, **family members are generally not personally responsible** for paying those debts—unless specific exceptions apply.

The Estate Pays: Debts are paid from the deceased person's estate during the probate process.

Tips:

- **Don't pay debts from your own funds** unless you're legally obligated.
- **Consult an estate attorney** before distributing any assets.
- **Keep good records** of all debts and creditor communications.
- **Avoid "preferential payments"**—paying one creditor before others can create legal issues for the estate.

Types of Debt & How They Are Handled

Credit Cards: Paid from estate assets. If the estate is insolvent, the debt may go unpaid.

Mortgages: The lender may foreclose if payments stop. Heirs can assume or refinance the loan.

Auto Loans: The lender may repossess the vehicle if payments stop.

Medical Bills: Paid from the estate. Hospitals may file claims during probate.

Student Loans: Federal loans are discharged; private loans may still be collectible from the estate.

Taxes (Federal/State): Final income taxes must be filed and paid from the estate.

Debt: When Are Family Members Responsible?

Family members are **not liable** for the deceased's debts **unless**:

- They were a **co-signer** or **joint account holder**
- They are a **surviving spouse** in certain community property states (not Colorado)
- They **guaranteed** the debt personally
- Colorado **does not have filial responsibility laws**, so adult children are **not required** to pay a parent's debts.

Debt

Creditor Deadlines in Colorado

- Creditors have **one year** from the date of death to file claims against the estate.
- The personal representative must **publish a notice** to creditors and notify known creditors directly.

What If the Estate Can't Pay All Debts?

- If the estate is **insolvent** (debts exceed assets):
- Debts are paid in a **priority order** set by Colorado law:
 - Administrative expenses (e.g., probate costs)
 - Funeral and burial expenses
 - Taxes
 - Secured debts (e.g., mortgages)
 - Unsecured debts (e.g., credit cards)
- **Remaining debts may go unpaid**, and heirs receive nothing until debts are settled.

Taxes

Federal Estate Tax: Applies to estates above a certain threshold.

State Estate/Inheritance Taxes: Vary by state; Colorado currently has no estate tax.

Minimization Strategies: Gifting, trusts, charitable donations.

Professional Advice: Consult a tax advisor or estate attorney.

Digital Assets

Digital assets are any electronic records or accounts that hold personal, financial, or sentimental value. These include:

- Email accounts (e.g., Gmail, Outlook)
- Social media profiles (e.g., Facebook, Instagram, LinkedIn)
- Online banking and investment accounts
- Cloud storage (e.g., Google Drive, Dropbox)
- Digital photos, videos, and documents
- Cryptocurrency wallets (e.g., Bitcoin, Ethereum)
- Domain names and websites
- Streaming services and subscriptions (e.g., Netflix, Spotify)

Digital Assets

Why They Matter in Estate Planning

- **Access Issues:** Without proper planning, loved ones may be locked out of important accounts.
- **Legal Barriers:** Privacy laws and terms of service may prevent access without authorization.
- **Sentimental Value:** Photos, videos, and messages may be irreplaceable.
- **Financial Value:** Some digital assets (like crypto or online businesses) can be worth significant money.

Practical Tips

- Review and update your digital asset inventory annually.
- Inform your executor and family where your digital asset plan is stored.
- Avoid writing passwords directly in your will (it becomes public during probate).
- Use services like Google's Inactive Account Manager or Facebook's Legacy Contact.

How to Include Digital Assets in Your Estate Plan

1. Inventory Your Digital Assets

- Make a list of all your accounts and digital properties.
- Include usernames, email addresses, and account types.

2. Secure Your Access Information

- Store passwords and two-factor authentication details in a secure location.
- Use a password manager or encrypted document.
- Consider a digital vault service.

3. Appoint a Digital Executor

- Choose someone tech-savvy and trustworthy.
- This person will manage your digital assets after your death.
- Include this role in your will or trust.

4. Provide Legal Authorization

- Use estate planning documents to grant access.
- Reference the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) if applicable in your state.
- Work with an attorney to ensure compliance with laws and service agreements.

5. Specify Your Wishes

- Decide which accounts should be deleted, memorialized, or transferred.
- Provide instructions for handling sentimental items like photos or messages.
- Clarify what should happen to financial assets like crypto or online businesses.

Who Can Make Decisions on Your Behalf?

Topics:

1. Financial Power of Attorney
2. Medical Power of Attorney
3. Advance Healthcare Directive/Living Will

Financial Power of Attorney

Purpose: Allows someone you trust to manage your financial affairs if you're unable to do so.

Key Responsibilities of the Agent:

- Paying bills and managing bank accounts
- Handling investments and retirement accounts
- Filing taxes
- Buying or selling property

Types:

- **General POA:** Broad authority over financial matters.
- **Limited POA:** Specific tasks (e.g., selling a home).

Durability:

- **Durable POA:** Remains in effect if you become incapacitated.
- **Non-Durable POA:** Stops working if you become incapacitated.

Tips:

- Choose someone financially responsible and trustworthy.
- Discuss your expectations and boundaries clearly.
- Keep a copy of the document in a secure but accessible place.

Springing Financial Power of Attorney

Purpose: Becomes effective only under specific conditions—typically when you become incapacitated.

Key Features:

- Offers peace of mind by delaying authority until needed.
- Requires clear legal language and often a doctor's certification to activate.

Pros:

- Prevents misuse of authority while you're still capable.
- Useful for those who want control until absolutely necessary.

Cons:

- May cause delays in urgent situations due to activation requirements.
- Some institutions may be hesitant to honor springing POAs without legal review.

Tips:

- Ensure the document is legally sound and clearly defines "incapacity."
- Discuss with your attorney to weigh pros and cons.
- Inform your family and healthcare providers about its existence.

Medical Durable Power of Attorney

Purpose: Appoints someone to make healthcare decisions if you're unable to communicate or make decisions yourself.

Key Features:

- Can be activated when you're unable to speak for yourself.
- Does **not require witnesses** in Colorado—only your signature.
- You can name **successor agents** in case your primary agent is unavailable.
- Your agent can make decisions about:
 - Life-prolonging treatments
 - Spiritual care
 - Organ donation
 - Autopsy and body disposition

Key Responsibilities of the Agent:

- Making decisions about treatments, surgeries, and medications
- Choosing healthcare providers or facilities
- Accessing medical records

- Advocating for your healthcare preferences

Important Considerations:

- Should align with your values and beliefs about medical care.
- Often works alongside a living will or advance directive.
- Can be activated only when you're deemed incapacitated.

Tips:

- Choose someone who understands and respects your values.
- **Keep the document accessible and share copies with your doctor and loved ones.**
- Have open conversations with your agent about your wishes.
- Review and update as your health or preferences change.

Advance Healthcare Directive for Medical & Surgical Treatment

Purpose: Specifies your preferences for end-of-life care, especially regarding life support.

Comprised of:

- LIVING WILL: States your preferences for medical treatment (e.g., life support).
- MEDICAL POA: Appoints someone to make decisions if you're unable.
- DNR ORDERS & CPR DIRECTIVE: Specify if you do not want resuscitation.
- MOST Form (see notes)

Additional Tips:

- You do not need a lawyer to complete these forms.
- You can attach additional instructions or letters to clarify your wishes.
- If no directive is in place, Colorado law allows a Proxy Decision Maker to be appointed by consensus among family and caregivers.

Activation Criteria in Colorado:

- You must be **unable to communicate** your wishes.
- Two physicians must certify in writing that you have a **terminal condition** or are in a **persistent vegetative state**.

Common Instructions Include:

- Whether to use ventilators, feeding tubes, dialysis, or other life-prolonging measures.
- Preferences for artificial nutrition and hydration.
- Religious or philosophical considerations.

Legal Requirements:

- Must be **signed by two witnesses**.
- Can be revoked or updated at any time.

Importance: Prevents confusion and stress for loved ones.

Advance Healthcare Directive for Medical & Surgical Treatment

CPR Directive

Purpose: States whether you want to receive cardiopulmonary resuscitation (CPR) if your heart or breathing stops.

Key Points:

- Must be signed by **you and your physician**.
- Often used by individuals with chronic or terminal conditions.
- Should be clearly visible in your home or care facility.

MOST Form (Medical Orders for Scope of Treatment)

Purpose: A physician-completed form that outlines specific medical orders based on your preferences.

Use Cases:

- Ideal for individuals with serious illnesses or frailty.
- Includes decisions about resuscitation, hospitalization, antibiotics, and feeding tubes.

Legal Status:

- Must be signed by both the patient and a healthcare provider.
- Recognized across healthcare settings (hospital, nursing home, etc.).

Creating Advance Directives in Colorado

Choose Your Agent: Select someone you trust to act as your MDPOA.

State Your Wishes: Use the Living Will and "My Health Care Choices" forms to document preferences.

Sign the Forms:

- MDPOA: Your signature only.
- Living Will: Two witnesses.
- CPR Directive and MOST: You and your physician.

Distribute Copies:

- Your doctor and medical records department
- Your health care agent and family
- Keep a copy in your car and travel bag
- Store in an accessible place at home

Review Annually: Update if your health, preferences, or agent's availability changes.

Additional Resources

Colorado Statutory Power of Attorney Forms

Governed by **C.R.S. § 15-14-741** under the **Uniform Power of Attorney Act**

Statutory Form Available: Colorado provides a standardized form that residents can use to appoint an agent for financial matters.

Durable by Default: Unless stated otherwise, powers of attorney created after January 1, 2010, are considered **durable**, meaning they remain in effect even if the principal becomes incapacitated.

Scope of Authority: The form allows the principal to grant general or specific powers, including:

- Managing bank accounts
- Handling real estate
- Filing taxes
- Managing investments

The benefit in using these forms is that they are presumed valid provided you follow the instructions correctly.

Other Resources

- NOLO Online
- Look for free or discounted Legal Aid centers
- The Lake County Library offers Legal clinics
- Libraries may offer legal books and/or forms (JeffCo Library, for example, has online legal forms)
- Speak to your doctor - they may have forms available
- TALK WITH YOUR ATTORNEY!



AGING IN PLACE
considerations to make it
easier for your loved ones....



What if something happens to you and no family is around?

Is there one place where you—

- * Have a list of current medications?
- * Have Health directives such as Do Not Resuscitate, Living Will (if you are terminal how long you want life sustaining procedures, meds and/ sustenance) and do you want to be an organ donor?
- * Have any durable and/ or medical powers of attorney?
- * Have a HIPAA authorization release form so advocate can see information.

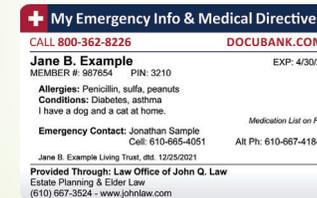
Consider having a folder in your kitchen cabinet with a star stuck on the outside so that people can grab a folder with all of that information if you are suddenly hospitalized.

There are a lot of products, here is one to consider:

- ▶ www.docubank.com (you can enroll with an estate planning professional or on your own)
- ▶ Puts a signed copy of health care documents: living will, health care power of attorney, organ donation and funeral information on file.
- ▶ You can send a personalized email to friends and family members so they know all your health care wishes are available 24/7 in an emergency.
- ▶ You can also have alerts sent to contacts when DocuBank card is used.

DocuBank Card makes all emergency medical information and advance directive available

- ▶ Card carried in wallet, has medical conditions and allergies, phone number for emergency contacts, list of meds, vaccinations and medical history can be transmitted when info is requested.



- ▶ By phone hospitals call direct to get information faxed to them
- ▶ By computer www.getdirectives.com to view and print docs for staff

DocuBank Information:

- ▶ You are able to add or revise medications as they change
- ▶ Stickers are provided to place on insurance cards/driver's license indicating DocuBank information is available.
- ▶ You can add critical medical information and list any doctors, specialists, surgeries, hospitalizations, family medical history, etc.
- ▶ Join via the forms on:
<https://www.docubank.com/index.cfm?event=info.howtojoin> (if you are doing it yourself, you will need to print out form and sign it and mail materials.
- ▶ One attorney recommends the 5 year membership and to laminate the card to keep behind the driver's license.

Fiduciary Services are an option if you prefer to have a 3rd party administer your affairs estate when you are not able.

- ▶ [Chayet & Danzo LLC--office in Frisco and metro area.](#)
- ▶ <https://www.coloradoelderlaw.com/fiduciary-services/fiduciary-and-trustee-services/> This office has attorneys or will accept appointments as a trustee, conservator or personal representative. [303-951-9217](tel:303-951-9217)
- ▶ CS Advocare office in the metro area.
- ▶ <https://www.csadvocare.com/> CS Advocare serves as your agent under a Power-of-Attorney, or as the Personal Representative for your estate.
- ▶ Known and used by a FOTL member.
- ▶ You can find a lot of other services in a search for fiduciary services in Colorado.

Other ways to present contact information and DocuBank link...

- <https://www.roadid.com/pages/shop-road-id?category=all>



HOW WE MADE IT EASIER BY AVOIDING PROBATE

This is not intended to be legal advice. Just sharing what my family considered and did to avoid probate:

- We made sure all real property interests, including mineral rights were no longer titled in our parents' names.
- We also made sure all other property was either payable on death to the brothers and sisters and looked to see any other assets that would be held jointly with a right of survivorship for the surviving spouse (then, POD to brothers and sisters).
- All life insurance policies and retirement accounts had beneficiary designations.

Internet search explained the following:

- ▀ Living trust allow assets to pass to beneficiaries according to the trust document without probate.
 - ❖ In Colorado, you can make a living trust to avoid probate for virtually any asset you own—real estate, bank accounts, vehicles, and so on. You need to create a trust document (it's similar to a will), naming someone to take over as trustee after your death (called a "successor trustee").
 - ❖ Then—and this is crucial—you must transfer ownership of your property to yourself as the trustee of the trust.
 - ❖ Once all that's done, the property will be controlled by the terms of the trust. At your death, your successor trustee will be able to transfer it to the trust beneficiaries without probate court proceedings.
- ▀ <https://www.nolo.com/legal-encyclopedia/colorado-avoiding-probate-32107.html>

▀ Joint Tenancy With Right of Survivorship

- ❖ If you own property jointly with someone else as joint tenants, then the surviving owner automatically owns the property when the other owner dies. No probate is necessary.
- ❖ Joint tenancy often works well when couples (married or not) acquire real estate, vehicles, bank accounts, or other valuable property together.
- ❖ Colorado is one of just a few states that allows owners, called joint tenants, to own unequal shares. (Colo. Rev. Stat. §§ 38-11-101, 38-31-101 (2024).)

Transfer-on-Death Deeds for Real Estate

- ❖ Colorado allows you to leave real estate with transfer-on-death deeds. These deeds are also called beneficiary deeds.
- ❖ You sign and record the deed now, but it doesn't take effect until your death.
- ❖ You can revoke the deed or sell the property at any time; the beneficiary you name on the deed has no rights until your death. (Colo. Rev. Stat. § 15-15-402 (2024).)

Transfer-on-Death Registration for Vehicles

- ❖ Colorado allows transfer-on-death registration of vehicles. If you register your vehicle this way, the beneficiary you name will automatically inherit the vehicle after the death.
- ❖ No probate court proceeding will be necessary. (Colo. Rev. Stat. § 42-6-110.5 (2024).)

You can use JDF 999 Affidavit for Collection of Personal Property if you determine that you do not need to go through the court process. This form does not get filed with the court. <https://www.coloradojudicial.gov/self-help-and-forms/self-help-forms/>

How to Use JDF 999

- ❖ The affidavit is not filed with the Court. Instead, the affidavit must be presented to any person that is indebted to the decedent or having possession of decedent's tangible personal property, including but not limited to funds on deposit at or the contents of safe deposit box at any financial institution, or having an instrument evidencing a debt, obligation, stock, chose in action, or stock brand.
- ❖ The Colorado Department of Motor Vehicles ("DMV") will NOT accept JDF 999 but instead requires the use of its own affidavit (DR 2712) to transfer title to motor vehicles, motorcycles, motor homes, etc. owned by the Decedent (see Colorado.gov/revenue/dmv).



Complexity of estate or disputes may require formal probate

■ The JDF 999 affidavit may be used if:

- 1) At least ten days have elapsed since the date of death; **AND**
- 2) The value of the property of the estate, less liens and encumbrances, does not exceed, for the Decedent's year of death (Y.O.D.)—2025 **Year of Death Amount is \$86,000.**

Estates with many assets, complex financial situations, or disputes among heirs may require formal probate proceedings.