



TWELVE STEPS IN SETTLING A LOVED ONE'S ESTATE

Whether you are a family member or an executor (personal representative) under the will, you may find this report enlightening. Settling an estate can be time consuming and frustrating. Your attorney can help overcome some of the hurdles you may encounter.

1. Colorado law requires that a qualified medical professional be notified and make the official pronouncement of death. Notify the police if the cause of death is suspicious. Notify the county coroner if death occurs at home. Notify immediate family members and ask them to help you with some of your tasks.

2. Determine if the decedent had any specific funeral or burial arrangements or expressed wishes. Make arrangements for the body to be picked up by the funeral home, or crematory if the body is to be cremated.

Arrange for the funeral and notify all family members and others who may wish to attend of the time and place of the services.

If the decedent (or his or her spouse) was a veteran, consider a burial or interment of ashes at the Fort Logan National Cemetery. The Veterans Administration will provide a flag, headstone and perhaps other benefits. You will

need the decedent's discharge papers (DD-214) for this and other VA benefits.

3. Order death certificates. The executor will generally need one original death certificate for each asset (house, car, bank and investment accounts, life insurance policies, and the like). Three accounts at one bank will require only one certificate, but accounts at three banks will require three certificates. Always order several extra, and always ask for the original death certificate to be returned to you.

Although not required to do so, some firms may comply with your request, thus reducing the possibility of having to order more.

4. Secure assets. If the residence is unoccupied, consider changing locks, removing valuable items, such as jewelry, artwork, car keys, and the like. Consider having another family member or your attorney present to reduce the likelihood of a later dispute over "missing" items. Arrange for the care of pets, removal of perishable food and the like. Properly dispose of medications. Find, remove, and review the decedent's will, recent bank and investment statements, tax returns, and other papers which could be helpful in settling the decedent's estate. Notify credit card issuers and then destroy such cards. Determining values of



the decedent's assets on date of death may be important for income tax purposes.

5. Notify those who are making payments to the decedent. Social Security is usually done by the funeral home, but others may require a photocopy of the death certificate. A surviving spouse may be entitled to survivor benefits under Social Security and other retirement plans. Contact each plan provider. Stop automatic payments as applicable, but not home utilities and the like which may be necessary to maintain while the estate is being settled.

6. Arrange to forward mail if necessary. Review the decedent's emails as well. Determine claims which may be made against the estate. Generally, you are not personally responsible for the payment of the decedent's debts, and to the extent you actually pay such bills (such as the funeral) personally, you may be entitled to be reimbursed by the estate. If you think the decedent's debts may exceed the decedent's probate assets, discuss the priority of payments and procedure to dispute questionable claims with the estate attorney. Funeral expenses, executor's and attorney's fees have priority over most other claims.

7. File the original of the will with the appropriate court as required by law. Work with an estate attorney to file necessary papers with the court to open probate if necessary. Assets titled in joint tenancy pass to the surviving joint owner without probate, as do assets on which there is a beneficiary designation or which are owned by a living trust. The will (or if none, the state law of intestacy) controls the distribution of only the probate estate. It has no effect on non-probate assets. In Colorado, if the assets subject to probate involve no real estate and are valued at less than \$70,000 (2020), such assets can be

liquidated or transferred with a small estate affidavit and without opening probate.

8. Once appointed as executor, or if you are the trustee under a living trust, you should have the authority to distribute the decedent's household effects to family members according to the will.

Most families just get together and decide how such assets are to be distributed, sometimes with an agreed offset for a highly valuable asset. If it appears that a dispute may arise over such distribution, sometimes the estate attorney can be helpful in resolving such issues. Unwanted assets are often sold at an estate sale or given away. It may be important that all items be removed from the home by the recipients as soon as possible if the home is going to be sold soon.

9. Contact current and prior employers to see if any benefits may be payable to the decedent's estate. Look for old insurance policies and file claims even if you think the policy has expired.

10. Contact the decedent's investment and other advisors. Monitor bank and investment statements carefully. All or a portion of the decedent's direct deposits made after death may be withdrawn by the paying entity and without advanced notice to you. Stop auto-payments being made by the decedent which are no longer necessary. Do not stop loan and insurance payments on the residence and car until those assets are sold or otherwise transferred. Notify the insurance companies of the death.

11. Prepare and file the prior and current year's federal and state income tax returns for the decedent. The executor can be personally liable for failing to do so. Discuss these matters with your attorney and accountant.



12. Contact an estate planning attorney. Even if probate is not required, working with an estate attorney can help reduce the costs of settling an estate, make it less time consuming and frustrating. The estate attorney can also help reduce inter-family disagreements as well as the likelihood that you could be held personally liable for your actions - or inactions - in settling the estate.

Our manual, "*What to do When Someone Dies*" has considerably more details on settling an estate, including an extensive checklist. This manual and other information is available at no charge or obligation on our website at www.fleisherpattersonlaw.com

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