

Senior Law Handbook

2009 Edition

**A Colorado Legal Information and
Reference Guide for Aging Adults**

**Sean C. Bell
Managing Editor**

**A joint project of the Elder Law and Trust and Estate Sections
of the Colorado Bar Association**

**CONTINUING LEGAL EDUCATION IN COLORADO, INC.
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Senior Law Handbook

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Individual chapters of from this handbook are available for free download at www.cobar.org/slhsurvey.cfm. Information about the next Senior Law Day is available there as well.

Publisher's Note

We are excited to present the 2009 edition of the *Senior Law Handbook*, a project designed to provide aging adults and their families and caregivers with useful information on many subjects related to their legal concerns. Along with timely updates to existing chapters, we introduce five new chapters in this edition:

Chapter 7 — “Long-Term Care Insurance,” by Aaron Eisenach

Chapter 16 — “Estate and Succession Planning for Farmers and Ranchers,” by Marianne Blackwell and William Sheets

Chapter 19 — “Aging in Place: Maintaining Your Independence at Home,” by Michele Lawonn

Chapter 29 — “Nutrition and Healthy Aging,” by Heather Isely, Lindsay Wilson, and Karen Falbo

Chapter 31 — “Searching the Internet Increases Brain Function!” by Michael Benidt and Sheryl Kay

We believe these new chapters (and their wonderful authors) make a great resource even more useful and valuable to its readers. Additionally, we thank Paul Kyed for his review of Chapter 14, “Grandparent Custody and Visitation Issues.”

Much of the information you'll find in this book is based on current laws and practices of Colorado, as well as policies and programs of the federal government. **The information provided in the *Senior Law Handbook* is not intended to replace the advice and services of an attorney.** We urge you to contact an elder law attorney for advice relating to the particulars of your situation.

We would like to thank all of the authors for their generous contributions of their time and their willingness to share their expertise with older adults in Colorado. We especially thank Sean Bell, our managing editor, for his pleasant assistance and dedication, and welcome all of our new authors to the project. We are indebted to them for their contributions to this book. Additionally, many thanks to renowned Colorado photographer John Fielder, who graciously allowed us to use the beautiful photo that graces our cover.

Individual chapters from this handbook are available for free download at www.cobar.org/slhsurvey.cfm. Information about the next Senior Law Day is available there as well.

We hope you find this handbook, which we will update annually to coincide with Senior Law Day, to be a useful resource, and welcome any thoughts or suggestions you may have in helping us to improve it in years to come.

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Editor's Note

The *Senior Law Handbook* was produced this year by the Colorado Bar Association's Civic and Community Affairs Committee of the Elder Law Section, along with the Trust and Estate Section, and in conjunction with CLE in Colorado, Inc. Our mission with the *Senior Law Handbook* is to help older people better understand the laws that affect their daily lives. Today's society is complex, and hopefully this *Handbook* provides some plain-language insights into its relationship to older adults. That said, laws and programs change, and can apply differently to people depending on their individual circumstances. The *Senior Law Handbook* is only intended to be an initial information source. The lists of agencies and other resources at the end of each chapter can be used for more specific and up-to-date information.

Although this year's handbook is greatly expanded in an effort to provide important information, its chapters are necessarily brief, considering the variety of subjects covered, and the handbook is not intended to completely discuss any topic. Therefore, it cannot, and is not intended to, replace the advice and services of an attorney, any professional, or agency.

In addition to our gratitude to the authors, the Civic and Community Affairs Committee would like to thank the following individuals for their assistance in creating the *Senior Law Handbook*: Heather Clark and Carolyn Gravit with the Colorado Bar Association (CBA), and Catherine McHughes and Mel Reveles in the CBA Internet and Technology Department.

The Committee also wishes to acknowledge the support by and contributions of CLE in Colorado, Inc., the nonprofit legal education branch of the CBA. Each spring, CLE's Publications Department produces this handbook that you are now holding. The Committee could not undertake this project without the support of CLE's Gary Abrams and Dawn McKnight, nor without the hands-on involvement of Lisa Travis Fischer, Marsi Buckmelter, and Susan Hoyt. In particular, the Committee thanks Ms. Fischer for her great production management, and Ms. Buckmelter and Ms. Hoyt for editing and proofing our authors' manuscripts.

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April 2009

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Mr. Bell also has a Master of Laws in Environmental Law and is keenly interested in putting his many years of environmental experience to work for our state, our country, and our world as we seek to address the myriad issues that face our peoples, our lands, and our waters. We must learn to properly cherish our elders and our world.

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Jennifer holds a B.A. from Oberlin College and an M.A. (*summa cum laude*) in end-of-life studies from Regis University. She is the author of several recent articles on palliative care, hospice, Western traditions of companioned dying, and the ethics of cardiac device deactivation at the end of life in diverse media including the *Seniors Blue Book*, the *Colorado Episcopalian*, and the *American Journal of Hospice and Palliative Medicine*. Her book, *How Hospice Can Save Your Life: A Guide to End-of-Life Care Options in Colorado*, is in preparation.

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As an executive for companies like B. Dalton, Waldenbooks, and Barnes & Noble, Michael Benidt wasted most of his business career reading novels on airplanes. After finding it almost impossible to learn the first thing about computers, he decided that he was just the right person to teach the topic, creating Golden Compass in late 1999. He managed to convince top training companies like Pryor/CareerTrack and MicroCenter Education to hire him, but has concentrated exclusively on Golden Compass in the last few years.

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Michael and Sheryl’s truly unique presentations reach people of all ability levels, from the technically adept to the completely hopeless. They still believe that technology was invented to serve people — not the other way around. Some of their recent clients include the International Association of Administrative Professionals; the Colorado Society of Association Executives; the Women’s Vision Foundation; Meeting Planners International; the Florida Health Care Association; and the Washington Department of Community, Trade and Economic Development.

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Mr. Cairns has 26 years of experience as a defense attorney in matters relating to workers' compensation and employment law. He has published several articles in *The Colorado Lawyer* concerning employment issues and pre-judgment interest, and has been a frequent speaker concerning workers' compensation, pre-employment testing, the American with Disabilities Act of 1990, and the Family and Medical Leave Act of 1993. He is the founder and principal instructor for The Center for Workers' Compensation Training, a private occupational school.

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Krieger & Associates works with several hundred agents, assisting them with licensing, carrier appointments, marketing, and other aspects of offering Long-Term Care Insurance. His past experience in marketing to individuals, associations, and employers allows him to assist both novice and experienced agents in achieving their goals. As an ICB company, Krieger & Associates enjoys the ability to help producers locally and nationally.

Aaron's passion for long-term care insurance began when his grandfather spent many years receiving care due to Alzheimer's disease. Aaron's father also lost a battle with Alzheimer's, but his long-term care insurance policy protected the family from many of the physical, emotional, and financial consequences associated with long-term care. A native of Colorado, Aaron graduated with honors from Colorado State University. He and his wife, Cheryl, enjoy raising their four children at their home outside of Brighton. Coaching Little League sports, helping his children with 4-H projects, and serving as the pianist at his local church are a few of the activities that take up his free time.

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Mr. Forester has a bachelor's degree in English, with post-graduate courses in social work and human services. He is creator and founding member of the Adams County Resource Specialists group and has served on the Adams County Community Adult Protection Team since 1999. He served for four years as a volunteer ombudsman with the Denver Regional Council of Governments (DRCOG). Mr. Forester also writes an advice column for seniors, "Ask Lew," which appears in the Senior Hub *Advisor*, distributed with the *Sentinel* newspapers.

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Michael Kirtland is a partner in the Colorado Springs law firm Kirtland & Seal, L.L.C. His practice is concentrated in the areas of trusts and estates, estate planning, wills, probate and ancillary probate, elder law, guardianship and conservatorship, marital agreements, individual and business taxation, small business law, and incorporation. Mr. Kirtland was admitted to practice in Alabama in 1994 and in Colorado in 2004. He is also admitted to the U.S. District Courts for the Middle District of Alabama and the District of Colorado, the U.S. Courts of Appeals for the Tenth and Eleventh Circuits, the U.S. Tax Court, and the U.S. Supreme Court. He attended Coe College, where he received his B.A. in 1974, and the University of Colorado at Colorado Springs, where he received an M.P.A., *summa cum laude*, in 1981. He received his J.D., *magna cum laude*, from Faulkner University in 1993, and his LL.M. in Taxation from the University of Alabama in 1999.

Mr. Kirtland is a member of the El Paso County, Colorado, and American bar associations. He is a member of the El Paso County Bar Association Probate Section; the Colorado Bar Association Elder Law, Trust and Estate, and Alternative Dispute Resolution sections; and the American Bar Association Sections on Alternative Dispute Resolution and Real Property, Trust and Estate Law, of which he is vice-chair of the Elder Law Group. He is also an acquisitions editor for the Book Publishing Committee. Mr. Kirtland is also a member of the Ethics Committee of the El Paso County Medical Society.

Mr. Kirtland serves as a member of the Judicial Performance Commission for the Fourth Judicial District of Colorado. He belongs to the Alabama State Bar (where he is a Registered Mediator), the American Inns of Court in Colorado Springs, the National Academy of Elder Law Attorneys, the Colorado Springs Estate Planning Council, the Air Force Association, and the Military Officers Association of America. Mr. Kirtland is also one of only nine Certified Elder Law Attorneys in Colorado.

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Paul J. Kyed is an associate at Holland & Hart LLP, the largest Denver-based law firm, with offices in seven states plus the District of Columbia. Paul is a member of Holland & Hart's commercial litigation group, representing individuals and corporations in complex cases involving contract disputes, products liability, and appeals. Although these are his specialties, Paul enjoys representing clients in other areas of the law, too. For example, he currently represents a client involved in a dispute concerning grandparent visitation. Paul is a 2006 graduate of the University of Denver Sturm College of Law where he served as the editor-in-chief of the *University of Denver Law Review* during his final year of law school. After law school, Paul clerked for one year for Colorado Supreme Court Justice Nathan B. Coats.

The law is a second career for Paul. He previously worked as a research engineer at Bethlehem Steel Corporation and holds two engineering degrees from the Colorado School of Mines and one from Stanford University.

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Ayodele Labode is a nursing home ombudsman with the Denver Regional Council of Governments (DRCOG). As a long-term care ombudsman, she advocates for nursing home residents and is responsible for investigating complaints from family members and nursing home residents. Ms. Labode practiced labor law with the Federal Labor Relations Authority for seven years before joining DRCOG.

Ms. Labode is a graduate of the University of Notre Dame, with a bachelor's degree in economics. She received her J.D. from Creighton University School of Law and her master's in health services administration from Regis University. She is licensed to practice law in Colorado and Nebraska.

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Chapter 3 — *Health Insurance Beyond Medicare*

Chapter 5 — *Government Programs and Financial Assistance*

Chapter 19 — *Aging in Place: Maintaining Your Independence at Home*

**Chapter 22 — *Hospital Discharge Planning:
Advocating for Seniors' Medicare Rehabilitation Benefits***

Michele M. Lawonn is the principal of Medical-Legal Advocates, LLC, in Denver. Her elder law firm utilizes a multi-faceted approach for aging adults and their caretakers to facilitate the maintenance of aging adults' quality of life through the appropriate use of legal planning, rehabilitation utilization, the exploration and assessment of safe housing options, assessment of medical management issues, medical advocacy, and end-of-life advocacy. Her legal practice concentrates in the areas of elder law, Medicare, probate, guardianships and conservatorships, estate planning, end-of-life planning, wills and trusts, and mediation.

Ms. Lawonn obtained her J.D. from the University of Denver College of Law and was a member of the *University of Denver Law Review*. She received a B.S. degree (*cum laude*) in physical therapy from the University of North Dakota School of Medicine. Ms. Lawonn is a member of the Colorado Bar Association (CBA) Elder Law, Trust and Estate, and Alternative Dispute Resolution (ADR) sections and the Denver Bar Association. She is the former Elder Law Section CBA Legislative Policy Committee liaison, and a past member of the Elder Law Section Executive Council. She was appointed by Congresswoman Diana DeGette as an alternate delegate to the 2005 White House Conference on Aging.

Ms. Lawonn is licensed to practice law in Colorado and California, the U.S. District Court for the District of Colorado, and the Tenth Circuit Court of Appeals. She also is licensed to practice physical therapy in Colorado.

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Chapter 11 — *Arm Yourself with Consumer Protection Information*

Amy has been with AARP ElderWatch since the inception of the program in 2001. Prior to her current position as Manager, Program Leader, Amy was the Program Coordinator. Amy is responsible for overall program management, including consumer outreach, volunteer management, design and technological coordination of database and website, fundraising, and strategic partnership building. Amy actively participates with national consumer groups such as the National Association of Consumer Agency Administrators (NACAA) and the National Consumers League (NCL). Currently, Amy sits on the advisory board of the Colorado Coalition for Elder Rights and Adult Protection (CCERAP). She has a degree in criminology/sociology from Ohio University and a certificate in gerontology from the University of Denver, and is a trained mediator. She has presented to over 10,000 seniors on protecting themselves from consumer fraud.

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Chapter 26 — *Guardianship of Adults*

Marcia G. O'Brien is a partner in the Denver law firm of Glatstein & O'Brien LLP, where she practices in the areas of elder law, probate litigation, probate administration, and estate planning. Ms. O'Brien has spoken numerous times on a variety of topics related to her areas of practice, and she taught the course, "Basic Estate Planning for the Modest Estate," for the University of Denver College of Law, Institute of Advanced Legal Studies.

She received her A.B. degree (*cum laude*) from Occidental College and her J.D. from the University of Denver College of Law. Ms. O'Brien is a member of the Arapahoe County, Colorado, and Colorado Women's bar associations, and the State Bar of California. She is also a member of the National Academy of Elder Law Attorneys (NAELA) and president of its Colorado chapter.

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Heather M. Porreca has been a long-term care ombudsman with the Denver Regional Council of Governments since 2006. As a long-term care ombudsman, she advocates for the residents in assisted living residences and assists in empowering and educating residents. In the past 10 years, Ms. Porreca has worked as a home and community based services (HCBS) case manager in both Denver and Jefferson counties. She also worked as a community relations specialist for Total Longterm Care. Ms. Porreca received her bachelor's degree in sociology from the University of Northern Colorado and a paralegal certificate from Denver Career College.

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Zane is the President and Co-Founder of Active Minds®, a Denver-based provider of educational seminars for seniors. He is a frequent speaker on lifelong learning and senior education. He is a member of the Denver Commission on Aging and chair of its Education Sub-Committee. Over the past 20 years, Zane has founded four companies and led two others as president or chairman. He is an officer in the Colorado Chapter of the Young Presidents' Organization and serves on the board of several organizations, including the Denver Coalition for Seniors. Zane holds a B.A. from Carleton College and an M.B.A. from Stanford University.

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William M. "Bill" Sheets is Assistant Vice President for Gift Planning in the Division of Advancement and Strategic Initiatives at Colorado State University. Bill received his B.S. in agricultural sciences in 1974 and an M.S. in agricultural economics in 1977 from Purdue University. Bill has been involved in the creation of three companies, working as a real estate manager, real estate appraiser and broker, and consultant to private industry and city and state governments concerning resource management. Bill has held advancement positions with Purdue University, Winrock International, and the University of Kentucky prior to joining the Advancement and Strategic Initiatives staff at Colorado State University in 2005. He is president of the National Agricultural Alumni Development Association, an association of 46 land grant universities, 3 state universities, and 6 not-for-profit organizations associated with agriculture and natural resources.

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Chapter 14 — *Grandparent Custody and Visitation Issues*

Betty Strobel is a magistrate with the Weld County Combined Courts in Greeley. She handles a district court docket consisting of dependency and neglect and domestic relations matters. She graduated from Montana State University in 1974 and from the University of Colorado School of Law in 1977. After five years as a deputy district attorney in Weld County, she entered private practice in 1983 and practiced primarily family law. She was appointed as a combined court magistrate in 2005.

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Paul Dean “Dean” Tayloe, Jr., is the Chief of the Support Services Division for the Denver VA Regional Office of the U.S. Department of Veterans Affairs. A native of Kentucky, Dean served in the United States Air Force from 1968 until 1972. Dean received his bachelor’s degree from Eastern Kentucky University in 1973 and a master’s of public administration degree in 1975. Dean started his career with the VA in 1974 as part of the Veterans Representative on Campus program to help Vietnam veterans obtain their educational and other benefits. Since then, he has served in a variety of positions, including Educational Liaison Representative; Chief, Field Section; Assistant Veterans Services Officer; Public Affairs Officer; Supervisor of the Fiduciary Program for the States of Colorado and Wyoming; and has been the Chief of Support Services since June 2006. Dean has nearly 34 years of experience with the programs administered by the VA.

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Andy Volin is in his 20th year practicing in the Labor and Employment Law Department of Sherman & Howard L.L.C. in its Denver office. He helps companies treat their workforce fairly, advising and defending employers and their management in disputes involving employment discrimination, wrongful discharge, and wage and hour law. During the last three years, Mr. Volin has served as the management-side co-chair of the Labor and Employment Section of the Colorado Bar Association; as a member of the adjunct faculty at the University of Denver Sturm College of Law, where he taught employment discrimination law; and as a contributing author to CBA-CLE's *The Practitioner's Guide to Colorado Employment Law* and the *Senior Law Handbook*. Mr. Volin received both his B.A. and J.D. from the University of Virginia.

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Chapter 29 — Nutrition and Healthy Aging

Lindsay Wilson has written numerous articles on current health topics and comes to Natural Grocers by Vitamin Cottage with her B.A. in history and journalism, with a strong focus in health and nutritional writing, from both Clemson University and Metropolitan State College of Denver. Lindsay is also a contributing writer for *Natural Solutions* magazine.

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Paulette Wisch has specialized in reverse mortgages for over 20 years. She is a nationally recognized expert in reverse mortgages and has been involved in all aspects of the industry. She was instrumental in working with the Federal Housing Authority (FHA) to bring its program to the market and managed Colorado's FHA reverse mortgage pilot program in 1989. She has traveled nationally to educate seniors and their adult children, lenders, and business leaders about reverse mortgage products. Paulette has personally helped over 2,000 seniors achieve financial security and independence by putting their home equity to work with a reverse mortgage.

Paulette has over 37 years of mortgage experience and currently manages the Reverse Mortgage Division of Universal Lending Corporation located at Evans and Monaco in Denver.

