

## Chapter 1 : Personal Representative Duties and Responsibilities

*Personal Representative. A person who manages the financial affairs of another person who is unable to do so. A personal representative is one kind of fiduciary—“an individual whom another has trusted to manage her property and money.*

Serving As A Personal Representative: You remember so clearly how proud you were when you received the telephone call from your Aunt May! She gleefully told you that she just had a new will prepared and named you as the Personal Representative. You felt as if a great honor had been bestowed upon you. After all, this will prove once and for all to the rest of your family that you are the most responsible person to handle such an important matter. Now that Aunt May has passed on, some of the heirs are calling you and demanding to receive their money right now; or asking if you would mind if they just went over to the house and picked up the china set that Aunt May promised them; or the funeral home is calling to say they want to be paid by the end of the week. You are beginning to realize that just maybe you should not have "volunteered" quite so quickly for this job. No Idea Most people have no idea what they are getting into when they agree to serve. Every thing seems so simple at first, however, as you receive more questions and demands from the heirs, you realize how much time this job will take and the potential for personal liability. Still, you have to remember that you volunteered for the job, and you swore to Aunt May that you would make sure that her final wishes were carried out. In other words, you gave your word and now you have to stick by it. Primary Duties Personal Representatives have five basic responsibilities: If a Personal Representative fails to properly perform any one of these duties, the Personal Representative may be personally responsible to the heirs for any loss. This personal liability can range from poor investment decisions and accountings, to underpaid taxes or failing to follow the exact terms of the will. The personal liability issue may not be an overriding concern when the Personal Representative is the only heir, but in estates with potentially feuding heirs, personal liability should be a primary concern. Depending on the terms of the will, the PR may have to post a bond. In Colorado, there are two basic types of probate proceedings: Generally, the type of proceeding used will be dictated by the terms of the will and the circumstances of the case. If the decedent directed that informal probate be used, and there is no dispute regarding the authenticity of the will, then the estate may be opened informally. If the heirs are fighting or there is some dispute regarding the will being offered into probate, then, generally, the estate will be administered in formal probate proceedings. Most estates in Colorado are probated by informal proceedings, which are simple, relatively quick, and inexpensive. In an informal probate proceeding, a person who has interest in the estate, usually the PR as designated in the will, applies for appointment as the PR to the court registrar in the county where the decedent resided or owned property. The PR must provide notice to all interested parties of the appointment and to known creditors. The estate administration then begins. Assistance from the court is not required, but is available if needed. Formal probate proceedings in Colorado are more formal and are lengthy and expensive. Formal probate proceedings begin with an interested person, who is usually the PR designated in the will, petitioning the court to open an estate and to admit the will to probate. A hearing on the petition is set before the court. Following notice to all interested parties, the court conducts a hearing and receives evidence before deciding if the will should be admitted to probate. The PR is then appointed, and Letters Testamentary are issued. Even if a will is probated by informal proceedings, a potential PR may opt for formal proceedings if he or she believes there will be disputes over the estate. An informal probate can always be converted into a formal probate if a dispute occurs that is beyond the scope of informal probate proceedings. Decisions To Make Though strictly bound by the terms of the will, the PR is faced with many difficult decisions. For example, if there are taxes or debts to pay and a shortage of cash, which property do you sell and how do you go about selling it? Who is responsible to pay the taxes or debt? Which debts and taxes do you pay first? How do you account for all the money and assets sold? How do you allocate the property among the heirs? If there are minor children involved and a trust is to be set up for them, how do you transfer the assets to the trust for the minor children? When can you distribute the assets to the heirs without risking a cash shortfall? Do you need court approval before you sell estate property? Do you need court

approval to make distributions of estate property to the heirs? The list of questions and potential problems can be endless. That is why it is essential for the PR to immediately hire an attorney experienced in probate and estate administration.

**Distribution of Assets** Probably the toughest part of being a PR is deciding when and how much of the estate assets to distribute to the heirs. The PR may begin distributions to heirs before the estate is closed, and the family often insists that the PR do just that. The best way to avoid problems with the heirs is simply to keep the heirs informed about what is happening in the estate settlement process. This means the PR should periodically call each heir and give an update. Even with good communications there can be animosity between heirs. This ill will is especially true in distribution of the personal possessions such as jewelry, collectible items, and furniture. This process can be emotionally charged if there are children from two different marriages or bad feelings between family members.

**First, there are the final state and federal individual tax returns to be filed.** The estate must file a state and federal fiduciary income tax return, along with the appropriate reports to the beneficiaries. In addition, the State of Colorado will require a state estate tax return to be filed within nine months from the date of death. If the decedent owned property in another state, that state may require an additional state inheritance or estate tax return to be filed, along with the appropriate state income tax returns. If the decedent owned real property in another state, probate proceedings may have to be commenced in that state as well.

**Compensation For Your Efforts** For all your efforts and risk of personal liability, you may receive nothing more than a handshake. The PR is entitled to take a reasonable fee that can range between. However, any fee taken will be taxable income to the PR. Thus, whether a PR charges a fee is often a tax issue.

**Conclusion** With all the problems a PR must face in settling an estate, the task will be much less stressful if the PR remembers a few basic rules. First, immediately get professional help from an experienced estate administration attorney. Third, do not commingle your assets with the estate assets. Fourth, maintain good records of all transactions. Fifth, keep the beneficiaries informed. Sixth, do not make distributions too quickly, no matter how loud the heirs are yelling for their money. Seventh, do not sell, lease or loan estate assets to yourself or members of your family. Finally, always consult with your attorney before you act. Knowing that you have followed the last wishes of a loved one can be a fulfilling and rewarding process if you follow the rules. For those persons who choose to go it alone or do not receive competent advice, serving as a PR is an invitation for disaster.

**Chapter 2 : Serving As A Personal Representative: A Thankless Job**

*Your personal representative should also send written notices directly to all creditors she can identify and locate. Preparing and filing tax returns: This will include your final personal income tax returns for the last year of your life, both federal and state, if applicable.*

Tax and Estates Alert By: Hussey, II The death of a loved one or close friend is a traumatic experience. This article explores some of the basic aspects of estate administration and describes the general duties of a personal representative, be it an executor, an administrator or a trustee, following death. These activities generally will be conducted on behalf of the decedent by a person acting in a fiduciary capacity, either as executor in some states called a personal representative, an administrator if the person dies without a will or as trustee, depending upon how the decedent held his or her property. In most instances, when a person dies owning property of more than a de minimis value, it is necessary to appoint someone to administer the estate. If the decedent dies intestate i. The duties and responsibilities of the personal representative, and even the title of the personal representative, may change depending on the state laws and circumstances involved, but the need for such a person or persons is shared by all. There can be other issues for the personal representative to handle aside from those involving financial considerations. For example, a decedent might have had a child from a previous marriage for whom he was paying support. There are, in fact, few situations in which property of a decedent can be transferred at death without the appointment of a personal representative. As a first step, it is helpful to know the meaning of a few common terms: Trustees, executors, administrators and other types of personal representatives are all fiduciaries. In some cases, gain resulting from appreciation in value may also be income. Personal Representatives of an Estate The Executor or Executrix The title of the personal representative depends on the method by which he or she or it, in the case of a bank or trust company was selected or appointed. If a deceased specifically names a person or institution to act for him or her in his or her will, and if the will is accepted as valid, the named personal representative is known as the executor male or executrix female. In cases when more than one individual or an individual and an institution are appointed to act, the joint designation is usually executors. Corporate entities banks and trust companies are also called executors. In most instances, state statutes stipulate the person who is entitled to be the administrator. Usually, the order of preference is similar to the order in which an estate passes to the family of someone who dies without a will. In other words, the spouse or adult children are usually named administrator. It is possible, however, that a more distant family member could be named, or even creditors or other strangers to the estate and to the decedent. If the decedent failed to take advantage of his right to name a personal representative, and if no persons with close relationships are available, the court, in its discretion, might appoint someone unknown to the decedent and unfamiliar with his affairs. This is often the case when the court is concerned about possible conflicts of interest or the rights of creditors or other beneficiaries. Duties and Responsibilities When a person dies, his or her property must be collected by the personal representative. While many executors and administrators perform these designated tasks in an expeditious and prudent manner, this is not always the case. What is reasonable and prudent to the personal representative when performing his tasks, however, is not always so to the beneficiaries, especially retrospectively. The various decisions to be made by the personal representative can often cause complaints by the beneficiaries. Sometimes complaints escalate into lawsuits against the personal representative s. These guidelines focus on activities that occur in an estate or trust immediately after the individual has died. Understanding the Will It is very important to read and understand the will or trust so that the you personal representative will know: Who the beneficiaries are What they are to receive and the dates of distribution How many years a trust, if any, will be ongoing Who, if anyone, are co-fiduciaries Does the will give everything outright, or does it create new trusts that may continue for several years? Most fiduciaries retain an attorney who specializes in the area of trusts and estates to assist them in performing their duties properly. Is a Probate Necessary? Probate is the formal legal process that gives recognition to a will and appoints the executor or personal representative who will administer the estate and distribute assets to the intended beneficiaries. The laws of each state vary, so it is a good idea to

consult an attorney to determine whether a probate proceeding is necessary, whether the fiduciary must be bonded a requirement that is often waived in the will and what reports must be prepared. Most probate proceedings are neither expensive nor prolonged. Some assets, such as brokerage accounts, may be accessed immediately; others, such as insurance, may have to be applied for by filing a claim. Depending on the nature and value of the property, this may be a routine activity, but you may need the services of a specialist appraiser if, for example, the decedent had rare or unusual items or was a serious collector. Real estate, whether it is a home or commercial property, and any business interests must also be valued. The fiduciary also must value financial assets, including bank and securities accounts. In some cases, such as property or casualty insurance bills or real estate taxes, the estate may be harmed if the bills are not paid promptly. Most states require a written notice to any known or reasonably ascertainable creditors. While most bills will present no problem, it is wise to consult an attorney in unusual circumstances, as the fiduciary can be held personally liable for improperly spending estate or trust assets. The fiduciary is responsible for a number of tax returns. First are the personal returns of the decedent: Since the estate or trust is also a taxpayer in its own right, a new tax identification number must be obtained and a fiduciary income tax return must be filed for the estate or trust as well. It is important to note for planning that the estate or trust and the beneficiaries may not be in the same tax brackets. Thus, timing of certain distributions can save money for all concerned. Some law firms such as White and Williams LLP , and other tax preparers and accountants specialize in preparing such fiduciary income tax returns and can be very helpful. They are familiar with the filing deadlines and will be able to determine whether the estate or trust must pay estimated taxes quarterly. Careful records should be kept and receipts should always be obtained as most of such expenses are also deductible either for income or death federal and state inheritance and estate tax purposes. The residue may be distributed outright or in further trust, such as a trust for a surviving spouse or for minor children. Be sure that all debts, taxes, and expenses are paid or provided for before distributing any property to beneficiaries. Although it is usual to obtain a receipt, release and refunding agreement from the beneficiary that states that he or she agrees to refund any excess distribution made in error by the fiduciary, as a practical matter it is often difficult to retrieve such funds. In some states, the fiduciary will need court approval before any distributions may be made. Where distributions are made to ongoing trusts or according to a formula described in the will or trust, it is best to consult an attorney to be sure the funding is completed properly. Tax consequences of a distribution sometimes can be surprising, so careful planning is important. Closing the Estate Estates close when the executor has paid all debts, expenses, and taxes; received tax clearances from the IRS and state taxing authorities; and all assets on hand have been distributed. Trusts terminate when a date or event described in the document occurs, such as the death of a beneficiary or the date the beneficiary attains a stated age. Some states require a petition to be filed in court before the assets are distributed and an estate or trust can be closed. When such a formal proceeding is not required, it is nevertheless good practice to require all beneficiaries to sign a document, prepared by an attorney, in which they approve of actions as fiduciary and acknowledge receipt of assets due them. This protects the fiduciary from later claims by a beneficiary. A final income tax return must be filed and a reserve kept back for any tax that may be due. Fees and Commissions A question often arises concerning the fees or commissions to which a personal representative is entitled for services rendered to the estate. The first place to check is the statutory law of the state where the estate is probated. Some states have standard fixed fees. There are also local county rules and customs that govern what the personal representative is entitled to charge. Professional executors such as banking and trust institutions advertise fixed-fee schedules. These negotiations occur between the prospective executor and the person making the initial designation the individual desiring to name the institution as personal representative in her will. An attorney who specializes in estate administration may be helpful in negotiating a lower fee for a large estate. In all cases, the executor or administrator is entitled to reasonable compensation for services. Fees should not be determined solely on the basis of the assets of the decedent; they should also take into account the nature of the work involved, the time spent, the complexity of the problems, the professional background and competence of the executor, and the ultimate results and benefits passed on to the heirs. Remuneration for services should bear a reasonable relationship to the time spent as well as the quality of work and results

achieved. The personal representative should keep a detailed record of time spent, services performed, and expenses paid on behalf of the estate. Furthermore, the personal representative should make periodic written progress reports to the beneficiaries and, if the situation permits, submit periodic bills for services rendered. In any event, before any work is begun, negotiate and settle in writing the issue of fees based on an estimate of complexity and other issues. The subsequent announcement that the personal representative expects to receive a significant portion of that amount for services performed doubtless will be met with some serious resistance. When the personal representative is an immediate member of the family, problems about fees are less likely to occur. Finally, there is the question of the division of the fee when two or more individuals are serving as co-executors or co-administrators. When they are individuals, the fee usually is divided equally although in a few states each executor could receive a full commission. But when a corporate executor is serving with an individual co-executor, courts often award the corporate executor bank or trust company a higher percentage. Trust Administration Trusts are designed to distinguish between income and principal, as many of them, especially older trusts, provide for income to be distributed to one person at one time and principal to either that same person at a different time or to another person entirely. For example, many trusts for a surviving spouse provide that all income must be paid to that spouse, but only pay the spouse principal in limited circumstances, such as a medical emergency. Unless a fiduciary has experience in this area, it is recommended that he or she seek professional advice regarding the investment of trust assets. In addition to good investment results, the fiduciary should invest within the applicable Prudent Investor Rule that governs the trust or estate. A skilled investment advisor can help the fiduciary decide how to invest, what assets to sell to provide cash for expenses, taxes, or outright distributions, and how to minimize income and capital gains taxes. During the period of administration, the fiduciary must provide an annual income tax statement called a Schedule K-1 to each beneficiary who is taxable on any income earned by the trust. The fiduciary can be held personally liable for interest and penalties if the income tax return is not filed and the tax paid by the due date, generally April 15th of the following year as is the case with individual income tax returns. Commonly Asked Questions How do I title accounts? Where do I hold the estate or trust assets? If you engage a trust company, they will open an account in the name of the estate or trust and provide regular statements showing all income and disbursements. You can open an investment account with a bank or brokerage company in the name of the estate or trust. All expenses and disbursements must be made from these accounts, and you should receive regular statements. How and how much do I get paid? Fiduciary work is time-consuming and can be difficult; it is appropriate to seek payment for your services. The will or trust agreement may set forth the compensation. As stated above, several states do not permit the fiduciary to pay his or her own compensation without a court order; check with your attorney before you write yourself a check. What if a beneficiary complains? Even professional fiduciaries, such as trust companies, receive complaints from time to time.

**Chapter 3 : Personal representative - Wikipedia**

*In common law jurisdictions, a personal representative or legal personal representative is a person appointed by a court to administer the estate of another person.*

A person named in the will to serve as the personal representative. A personal representative appointed by the court to administer the estate of someone who died without a will. A wrongful act, injury or damage for which a civil action can be brought. Appointment and qualification To be eligible for appointment as a personal representative, a person must have the capacity to contract. Most states have an order of priority for appointment of the personal representative. For example, under the UPC, the order is: Although the executor is named in the will, the person must still be evaluated and receive appointment from the probate court. The appointment is not necessarily automatic. Once the approval is made, the executor will receive letters testamentary or letters of administration for an administrator, which give the personal representative the authority to act on behalf of the decedent. To protect the interests of the beneficiaries, most states require the personal representative to obtain a fiduciary bond typically for double the value of personal property in the estate unless the will contains a provision that waives this requirement. The personal representative is entitled to compensation for performing his or her duties; however, the rate is statutory based on the size of the estate, unless the will states otherwise. Despite a provision for compensation, a personal representative may waive his or her right to compensation and serve for free. A waiver is commonly made by the surviving spouse or other family member. Foregoing compensation is usually done for tax savings because the income earned by the personal representative is taxed to him or her as personal income. Of course, if no compensation is paid, the estate cannot take a deduction for this cost. The lack of deduction may not be relevant for the estate if it is not liable for estate taxes anyway. Brett dies leaving a will that bequeaths his entire estate to his brother, Edwin, and names him as the executor. This usually occurs once the administration of the estate is over. In addition, the appointment could end prematurely if the personal representative dies, becomes disabled, is guilty of misconduct or lacks the qualities required of the person. In particular, failure to perform the duties required is grounds for removal. If the personal representative tires of the duties associated with administering the estate, the person cannot simply resign. Unless specifically authorized, either by the court or the will, the personal representative ordinarily has no duty or authority to carry on a business owned by the decedent. If he does so without express authority, the personal representative is personally liable for any losses and personally accountable to pay back any profits from that business. Speculative or risky investment propositions are definitely outside the realm of prudent management of assets. Accordingly, the personal representative should refrain from transacting personal business with the estate, thereby avoiding a conflict of interest. As is true with any fiduciary, a personal representative is liable for any losses resulting from actions taken in bad faith, mismanagement, or breach of fiduciary duty including the duty not to self-deal. Evelyn picked Jamie because he was the oldest child and had studied accounting in college. Evelyn usually kept her money in very conservative investments, much to the dismay of Jamie. When it was time to distribute the assets to the other beneficiaries, his two siblings, they were livid at the loss. Accordingly, Jamie will be personally liable to his siblings for the losses he sustained in the risky investment. Revocation of authority Subsequent to the issuance of letters of appointment of the personal representative, the court still has the authority to revoke them if they should not have been granted in the first place. Carl Young was years-old when he was sent to Iraq as part of his military service. Six weeks after he arrived, there was a car bomb that killed 50 soldiers. Initially, he was reported as one of the soldiers killed. Since he was single, his mother, Shannon, back in Washington requested appointment as administrator of his estate, since he did not have a will. Shortly thereafter, she was granted letters of administration. He had been badly injured in the blast and could not immediately notify his family that he was okay. After learning of this new development, the probate court revoked the letters of administration. Personal liability for torts At common law and in most states today, a personal representative is personally liable for any torts committed by him or his agents in the course of administering the estate. Yet, he may be eligible for reimbursement by the estate for any such liability if: To avoid this result, it would be

wise for the personal representative to take out liability insurance and charge the premium to the estate. Personal liability on contracts Most states also hold the personal representative personally liable on any contract entered into on behalf of the estate unless the contract relieves him from liability. Yet, he may be eligible for reimbursement from the estate for any such obligation if the contract: To shield himself from personal liability on a contract he had to enter into for the estate, he added the following stipulation:

*When an individual dies, the personal representative for the deceased is the executor or administrator of the deceased individual's estate, or the person who is legally authorized by a court or by state law to act on the behalf of the deceased individual or his or her estate.*

Probate, Probate Court, and the Personal Representative The only way you can beat the lawyers is to die with nothing. Common law allows the probate of an estate at any time, but state statute may limit the time. The UPC , for instance, provides that probate cannot be initiated more than 3 years after death. Property That Does Not Pass through Probate Nowadays, most property does not pass through probate, but is, instead, passed directly to beneficiaries or joint owners: Life insurance proceeds go directly to the beneficiary. Most bank or brokerage accounts have pay-on-death designations, allowing the account owner to specify the beneficiaries when the account is opened, or later. Retirement accounts also allow the designation of specific beneficiaries. Property held in irrevocable trusts also avoids probate, since the trust owns the property, and not the grantor. Joint tenancy is a form of ownership where each owner receives an equal portion of any deceased owner, with the final survivor owning the entire property. Most states now also allow property of minimal value to be passed directly to beneficiaries either without probate or with a simplified probate procedure. Because these transfers avoid probate, they are often referred to as nonprobate transfers. Outline of Probate Procedure Determine if there is a valid will. If there is, and it names a personal representative, then the personal representative will manage the estate process under court supervision. If no personal representative is named, or the named personal representative does not wish to serve, then the court will appoint an administrator to carry out the probate process. If there is no will, then the heirs will be determined by the state statutes governing the intestate distribution of property. If there are minor children involved, and no legal guardian has been appointed for their supervision, then the court will appoint card guardians or conservators. All probate property must be located and appraised. All expenses, debts, and taxes must be paid out of the assets of the probate estate. Expenses include the expenses of administering the estate, hiring attorneys or appraisers, and the final expenses of the decedent. Generally, creditors have 6 months from the publication of the notice to file a claim against the estate; otherwise, they will be forever barred. The estate representative must also file all tax returns and pay any due tax. Resolve any disputes as to the interpretation of the will or that may arise from heirs, creditors, tax authorities, and other parties that may object to the will. Generally, the probate court will resolve any disputes but the representative may need to hire an attorney to resolve legal disputes. Only after all expenses, debts, and taxes are paid and all disputes are resolved can the property be distributed to heirs, which usually takes at least one to 2 years, but may be longer if there are disputes. Starting Probate To pass property through a will or by intestacy means that it must pass through probate, which is the jurisdiction of the probate court. If the will names the personal representative, then he or she is called the executor of the will. The personal representative is most often a close relative or friend of the decedent, and must post a bond if the will does not waive it, although most usually do. The court then issues letters testamentary to an executor named in the will or letters of administration to an administrator selected by the court, which legally allows the personal representative to act on behalf of the estate. Probate Process The probate process can involve many steps, depending on the size of the estate and the variety and types of property within it. All of the assets of the estate must be determined and its value, if not easily determined, must be appraised. The personal representative must also notify all creditors of the decedent so that they can file a claim with the estate for payment. Known creditors of an estate must receive actual notice of the death of the decedent and that a claim should be filed with the estate with the personal representative within the statutory time. For unknown creditors, a notice in a local or other pertinent publication is generally sufficient. Creditors must file a claim within the deadline set by law or they will be forever barred from attempting to collect it. In most states, this time limit for filing claims applies only to probate property and not to trusts. However, some states, such as California, also limit the time for creditors to file claims against trust property. If the estate has real estate, then it may be necessary to continue paying mortgages, or real estate may have to be sold or leased. If the property must be sold, then

the personal representative may need to get a court order to allow the sale of the real estate and to give notice of all offers received, and may even require court approval for the final sale to the highest bidder. Probating an estate that has real property located in another state requires ancillary administration, by petitioning the court that has jurisdiction over the property. Fees, which usually require court approval, must be paid to attorneys, appraisers, and any other professional that was necessary to probate the estate, and the personal representative is paid a commission, although it may be waived if the personal representative is a close relative. After all liabilities of both the estate and the decedent are paid, the remaining assets are distributed to the beneficiaries. Formal Probate Probate can be formal or informal. Formal probate aka notice probate, solemn form probate requires that the personal representative get permission from the court to do everything, which includes property appraisals, debt payments, payment of fees, and the actual distribution of property. This, of course, greatly increases both the time necessary to probate the estate and the cost. The purported purpose of formal probate is to prevent fraud, but, for years, probate courts and attorneys have used probate to extract fees out of the estate, which is why one of the main objectives of estate planning is to avoid probate. Informal Probate Informal probate aka ex parte probate, common form probate allows the personal representative to administer the estate without going to court. He has the same powers that a trustee has over the trust. Obviously, informal probate is much faster and cheaper than formal probate, but informal probate depends on trust, so it is only allowed if the personal representative is a close relative of the decedent and most of the beneficiaries are also relatives. Common law has allowed any party in interest to petition the court for a formal probate at any time, which greatly increased the cost and time for probate, but states have limited probate challenges to a fixed time. Closing the Estate The probate process ends when the personal representative gives a final accounting to the probate court. After everything has been done—creditors and taxes paid, property distributed to the beneficiaries, and so on—the personal representative must petition the court for a discharge to be relieved of any further fiduciary responsibility as the personal representative of the estate. Search This Site Privacy Policy for this matter. Information is shared about your use of this site with Google. Details, including opt-out options, are provided in the Privacy Policy. Note that opt-out choices are also stored in cookies. You can control and delete any information collected by Google on this page, including any information obtained from users of this website. These choices must be made for each browser that you use. Send email to thismatter. Be sure to include the words no spam in the subject. If you do not include the words, the email will be deleted automatically.

### Chapter 5 : Probate, Probate Court, and the Personal Representative

*The Personal Representative will need to do many other practical tasks which are also described in the sections that follow. Also, the Forms and Instructions page has links to specific information about the different steps of the process.*

What resources do you have available to assist the public? The Publications Section of this website has links to booklets, pamphlets, sample guides and informative web sites. Our FAQ has answers to the most frequently asked questions. We also provide all the necessary forms on-line in pdf format. A relative of mine died recently. Can you let me know when the estate is opened? You may periodically check our Estate Search to determine if an estate has been opened. Return to Topic 1. Are your records available to the general public? Wills and probate records of deceased individuals are public records and may be reviewed in the office in which they were filed. Wills of living persons, which are held for safekeeping by the Register of Wills, are not public records. In the State of Maryland you may not review the Will of a living person if it is in the custody of the Register of Wills. What is the format of your records? In some Register of Wills Offices, newer records are stored in digital format and can be viewed on computer terminals while older records are available on either paper files , microfilm, microfiche or docket books depending on the age and type of record. Many offices have digitized all of their records. Are your records available via the Internet? Basic estate information and the estate docket list of documents filed is available for viewing on the Internet using our Estate Search feature. Some jurisdictions will have all of their records available while others will only have records available from to the present. How can I get copies of a Will or other documents filed in an estate? There is a fee for all copies based on the number of pages and the type of copy required. Can you help transfer a deed for real estate I inherited? The Register of Wills does not prepare or record deeds. You should contact your attorney or the Land Records Division of the Circuit Court in the jurisdiction where the real estate is located. Can I get a copy of a death certificate from your office? To obtain a copy of one of these you must contact the Vital Statistics Administration. Their telephone number is For more information, you may visit their website: The Register of Wills does not have jurisdiction over Powers of Attorney. We suggest you contact your attorney for assistance. Please note that a Power of Attorney ceases upon death.

**Chapter 6 : Personal Representatives - Horizon NJ Health**

*A Personal Representative is allowed to hire a probate lawyer when necessary and pay the legal fees out of the estate. Since your Personal Representative is given access to all property in the probate estate, the selection of a competent and trustworthy person is very important.*

These payments have priority over all other claims , including creditor claims, debts, taxes and costs of probate. If there is not enough property in the estate to pay all of these special payments, the Homestead Allowance is paid first, the Family Allowance is paid next and Exempt Property is paid last. Even if the person who died made a will that disinherited the spouse or children, the personal representative needs to pay the allowances and exempt property out of the estate. The spouse and children may disclaim their interest in receiving any allowances and exempt property, and would need to file a document with the court stating this. Return to top of page What is a Disclaimer? A person "disclaims" property when he or she refuses to accept it after the person dies. A disclaimer is only valid if a person makes it before receiving or controlling the property. The person must describe the property in writing, sign the disclaimer and file it with the court or deliver it to the Personal Representative. What is a "qualified" disclaimer? It is "qualified" because the IRS does not treat you as the owner of the property for estate and gift tax purposes. Where does the property go if I disclaim it? But the rules are complicated and this is not always the case. If you want to make a disclaimer, it is a good idea to talk to a probate lawyer. Return to top of page When should I transfer property to the persons who inherit it? You will usually make payments from the estate in the following order although this can be different for each probate: Homestead Allowance , Family Allowance and Exempt Property which have priority over all other claims. You can watch a very short presentation on the Special Protections for Family Members. Costs of probate as they become due, including expenses, Personal Representative fees and lawyer fees. Creditor claims, debts and taxes in order of priority. Remaining property to the persons who inherit it heirs or devisees. For specific information on when and how to transfer property to heirs and devisees, see Distribution of Estate Assets and Transferring Assets. Return to top of page Does the Personal Representative have the right to be paid? The Personal Representative has the right to be paid a "reasonable" fee for his or her time handling the probate and to be reimbursed for reasonable expenses. Most Personal Representatives choose to be paid at an hourly rate. While there is no set amount of what hourly fee is considered reasonable, the hourly rate must be based on the factors in Probate Rule 7. A Personal Representative can choose another reasonable method of payment such as a lump sum, a percentage of estate assets, or certain property of the person who died. If the Will sets out what the fee is, the Personal Representative must choose either the payment under the Will or a reasonable fee before he or she is appointed. He or she can also choose to serve without being paid. If the Personal Representative is the only heir or beneficiary of the estate , he or she will often serve without payment because estate property usually passes without income tax but all Personal Representative fees must be reported as taxable income. How does the court decide whether a Personal Representative fee is reasonable? The court looks at the following things: The amount of work and time needed to complete the probate. How difficult the probate was. Whether the Personal Representative needed any special skills or training. Whether the Personal Representative has any risk of personal liability after the probate is closed. Whether the Personal Representative was reimbursed for expenses. What work the Personal Representative hired agents to do and the fees charged by those agents. Whether the Personal Representative did other tasks for the estate, such as serving as lawyer, accountant, appraiser, property manager or investment advisor and whether the Personal Representative charged for those tasks. How many Personal Representatives served. Any other factor that is important. You should keep good records of everything you do during the probate, including the date, time spent and a description for each day. Keeping track of time is helpful for the court, helps interested persons understand what you did for the estate and helps to justify your fee. Return to top of page What powers does the Personal Representative have? The Personal Representative can do almost anything the person who died could do with estate property. The Personal Representative can buy and sell property, settle debts and taxes, make repairs, enter into contracts and leases, abandon property, make

investments, participate in lawsuits and continue most business dealings, among other things. The Personal Representative can hire agents to help with the probate , including lawyers, accountants, bookkeepers, investment advisors, real estate agents, appraisers and property caretakers. The Personal Representative can also hire family members to assist with his or her duties, if appropriate. Return to top of page Are individuals and businesses protected if they deal with the Personal Representative? The Letters Testamentary or Letters of Administration prove that the Personal Representative has the power to do the things that the person who died could. You can assume that the Personal Representative has all of the powers of an owner unless you actually know of a limitation. You do not need to follow up on what the Personal Representative does with the property once you give it to him or her. Return to top of page What duties does a Personal Representative owe to interested persons? A Personal Representative is a fiduciary which means that he or she is acting in a position of trust and his or her actions are held to a very high standard. The Personal Representative must act for the benefit of interested persons in the estate and not for his or her own personal benefit. A Personal Representative must follow the law, act with care and manage the estate efficiently and fairly. If the Personal Representative does something improper, he or she can be personally responsible from his or her own funds for damages. Return to top of page How can I remove a Personal Representative? You must have a good reason or "cause" to remove the Personal Representative. You must prove to the court that removal is in the best interest of the estate or show that the Personal Representative did bad things such as lying when being appointed, ignoring a court order, mismanaging the estate or failing to perform his or her duties. An interested person can ask the court to remove the Personal Representative by filing a formal probate. The court will schedule a hearing on your petition and you must give notice of the hearing to the Personal Representative and anyone else the court orders. When the Personal Representative has notice of your petition, he or she must stop acting except to preserve the estate. The form you file depends on whether the person who dies made a will. If the person who died made a Will , you can file: The court will schedule a hearing on your request and you must give notice of the hearing to the Personal Representative and anyone else the court orders. When the Personal Representative has notice of your Request to Start Formal Probate, he or she must stop acting except to preserve the estate. You can also petition the court for a temporary restraining order to stop the Personal Representative from doing a specific act. The court will set a hearing within 10 days on your petition. If you believe that the Personal Representative should be removed, it is a good idea to talk to a probate lawyer. Return to top of page How do I close the probate? After you have completed all of your tasks, you must file documents with the court to close the probate. Closing Informal Probate Cases There are two ways to close the informal probate: The most common way to close an informal probate is to file a Sworn Statement of Personal Representative with the court. You will keep your powers as Personal Representative for one year after you file the Sworn Statement. If there are no court proceedings at the end of the year, your appointment will end automatically. No court hearing is needed. You must sign a verification under oath saying that all of these statements are true and complete to the best of your knowledge and belief. You can do this before a notary. Notary services are available for free at all state court offices. You may also file a Request to Close Formal Estate and Approve Distribution that asks the court to close the probate formally. You can file this petition even if you have not opened a formal probate. The court will set a time and a date for a hearing. You must notify all interested persons of the hearing. At the hearing, the court will review the Inventory , Accounting and proposed distribution of any remaining property and listen to the concerns of all interested persons. If the court approves, it will close the probate and end your appointment immediately. If you have any questions about how to close the estate, you should talk to a probate lawyer. Where can I find more information about the different Personal Representative tasks? You can learn more about the:

## Chapter 7 : Chapter RCW: PERSONAL REPRESENTATIVESâ€™GENERAL PROVISIONSâ€™ACTIONS B

*A Personal Representative, or an Executor, of an estate is an individual or institution designated to administer the decedent's estate. As a fiduciary, a Personal Representative must settle and distribute the estate of the decedent as efficiently as possible by adhering to the directions outlined in the decedent's Last Will and Testament and the probate*

*laws of the state where the estate.*

## Chapter 8 : Personal Representative - LawShelf Educational Media

*A personal representative is an individual you place in charge of settling your estate after your death, also sometimes referred to as an executor-- or executrix if she is a female. Sometimes the personal representative of an estate without a will is called an administrator. A "testate" estate is.*

## Chapter 9 : Beneficiary Vs. Personal Representative | LegalZoom Legal Info

*Under the Rule, a person authorized (under State or other applicable law, e.g., tribal or military law) to act on behalf of the individual in making health care related decisions is the individual's "personal representative."*