**C.R.P.P. 40:**

**Rule 40. Discovery and Disclosures.**

**(a)**  This rule establishes the provisions and structure for discovery and disclosures in all proceedings seeking relief under Title 15, C.R.S. Nothing in this rule will alter the court's authority and ability to direct proportional limitations on discovery or to impose a case management structure or enter other discovery orders. Upon appropriate motion or sua sponte, the court may apply the Colorado Rules of Civil Procedure in whole or in part, may fashion discovery and disclosure rules applicable to specific proceedings, and may apply different discovery and disclosure rules to different parts of the proceeding.

**(b)**  Unless otherwise ordered by the court or stipulated by the parties, the expert disclosure provisions of C.R.C.P. 26(a)(2)(A) and 26(a)(2)(B) apply to proceedings seeking relief under Title 15, C.R.S. The timing of expert disclosures shall be established by order of the court or stipulation of the parties. The disclosure requirements of C.R.C.P. 26(a)(1) do not apply to probate proceedings unless ordered by the court or stipulated by the parties.

**(c)** Unless otherwise ordered by the court, the parties may engage in the discovery provided by C.R.C.P. 27 through [36](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6). Any discovery conducted in Title 15 proceedings prior to the issuance of a case management or other discovery order will be subject to [26(a)(4)](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6) and (5), and [26(b)](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6) through (g). However, due to the unique, expedited and often exigent circumstances in which probate proceedings take place, [C.R.C.P. 16](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6), [16.1](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6), and [16.2](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6) do not apply to probate proceedings unless ordered by the court or stipulated to by the parties.

**(d)**   [C.R.C.P. 37](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6), [45](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6), and [121](https://advance.lexis.com/search/?pdmfid=1000516&crid=f6fb3af1-2102-478c-9a34-ecb9b948fc7b&pdsearchterms=crPp40&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdquerytemplateid=&ecomp=b3s9k&prid=fe31e9ec-6a51-41d2-af16-965a63148ae6) §   1-12 are applicable to proceedings under Title 15.

**(e)**  Notwithstanding subsections (a) through (c) of this rule, subpoenas and discovery propounded ~~directed~~ to a respondent in proceedings under Title 15, Article 14, Part 3, are prohibited without leave of court, or until a petition for appointment of a guardian has been granted under §   15-14-311, C.R.S. The limits in this subsection do not apply to subpoenas or discovery propounded to a respondent’s agent under medical or financial powers of attorney.

**(f)** Notwithstanding subsections (a) through (d) of this rule, subpoenas and discovery propounded ~~directed~~ to a respondent in proceedings under Title 15, Article 14, Part 4, are prohibited without leave of court, or until a petition for appointment of a conservator has been granted under §   15-14-409, C.R.S. The limits in this subsection do not apply to subpoenas or discovery propounded to a respondent’s agent under medical or financial powers of attorney.