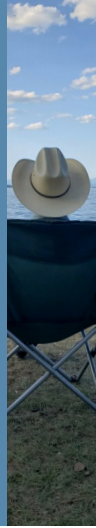




EXTENSION

MontGuide



Patti Goroski

FAMILY FINANCIAL MANAGEMENT

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Montana End-of-Life Registry

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The Montana Legislature authorized the Attorney General's Office to create and support an End-of-Life Registry website for Montana citizens. The Attorney General's Office, as the regulatory body, oversees the proper functioning of the registry and ensures it meets the necessary security and privacy standards. The registry provides a secure place for citizens to store advance directives online and gives authorized healthcare providers immediate access to the information. This MontGuide answers commonly asked questions about the Montana End-of-Life Registry.

What is an advance directive?

An advance directive is a document that expresses a person's wishes for how they would want to be treated if they were seriously ill and unable to make decisions. It provides instructions about what they would like done or not done about life-sustaining treatment and other healthcare issues. Life-sustaining treatment includes CPR, mechanical ventilation, artificial nutrition, and hydration.

A person may order their life to be prolonged as long as possible. Or a person may request their attending physician to withhold or withdraw treatment that only prolongs the process of dying. Examples of advance directives include health care directives, living wills (called declarations in Montana), health care (medical) powers of attorney, and Provider Orders for Life-sustaining Treatment (POLST).

How is an advance directive filed?

First, a person completes an advance directive. A form meeting the Montana requirements is available from the End-of-Life Registry at dojmt.gov/wp-content/uploads/My-Choices-Advance-Directive-8.28.17.pdf. Montana State University Extension also includes a declaration (living will) form in the MontGuide, *Living Wills (Declarations in Montana)*

(MT199202HR), available at [store.msuextension.org/Products/Living-Wills-\(Declarations-in-MT\)-MT199202HR-\(formerly-Montana-Rights-of-the-Terminally-Ill-Act\)-MT199202HR.aspx](http://store.msuextension.org/Products/Living-Wills-(Declarations-in-MT)-MT199202HR-(formerly-Montana-Rights-of-the-Terminally-Ill-Act)-MT199202HR.aspx). MSU Extension offers a free 24-page document explaining the Health Care Power of Attorney for Montanans, which includes a worksheet with forms to appoint a health care agent(s) and help others understand a person's health care preferences. store.msuextension.org/Products/Health-Care-Power-of-Attorney-and-Related-Documents-for-Montanans-EB0231-EB0231.aspx.

Second, a person completes the Montana End-of-Life Consumer Registration Agreement. The form is available from the End-of-Life Registry at app.mt.gov/registry or dojmt.gov/wp-content/uploads/EOL-CRA.pdf. After a person completes an advance directive and the Consumer Registration Agreement, they should make a copy to have a record of submission. The original forms are sent to:

Office of Consumer Protection
Department of Justice
P.O. Box 200151
Helena, MT 59620-1410
Phone: 406-444-0660 or 866-675-3314

What are the legal requirements for an advance directive?

Regardless of the format, Montana law requires a person (called a declarant under the Montana Rights of the Terminally Ill Act) who writes an advance directive to be at least 18 years of age. Two witnesses must observe the declarant signing the form. The declarant's signature and those of the two witnesses do not have to be notarized. If the declarant is unable to sign the form, another individual can sign on their behalf.

Example: Jane has Parkinson's disease and can no longer hold a pen to sign documents. Jane asked her attorney to sign on her behalf in the presence of two witnesses.

Who can serve as a witness for an advance directive?

Friends, acquaintances, and business associates can serve as witnesses at the signing of an advance directive. While Montana law allows family members to serve as witnesses, a declarant may decide not to have relatives serve as witnesses to avoid questions about impartiality.

Example: Ralph did not want any of his children to serve as witnesses for his declaration because he was aware they may disagree with his wish to stop life-sustaining treatment for his terminal cancer.

What if a declarant has a change of mind about an advance directive?

If a declarant wishes to change an advance directive stored in the registry, they can do so by completing a new directive and a new Consumer Registration Agreement. The declarant says in the Consumer Registration Agreement they are requesting to replace an existing directive with a new one. Then, both new forms are mailed to the Office of Consumer Protection. An advance directive cannot be updated or changed online.

When does an advance directive become effective?

An advance directive becomes effective only when the attending healthcare provider determines that the declarant is in a terminal condition and can no longer participate in decisions about medical treatment. An advance directive is not used if the declarant can express a choice about accepting or refusing medical treatment.

What is the difference between an advance directive and a Comfort One form?

In prior years, Comfort One gave Montanans the opportunity and the right to limit the care they receive in a medical emergency only. Comfort One was designed for people in an emergency outside the hospital. It provided immediate information to rescuers of their preference not to be resuscitated. They were to be provided with comfort care and allowed to die in the natural course of their illness. Enrollment was limited to those who had a terminal illness or those whose physician had ordered: “do not resuscitate.”

A Montanan could avoid all resuscitation efforts by displaying a Comfort One form, wallet card, or bracelet (the only credentials approved by the Montana Department of Health and Environmental Sciences) to emergency medical

service personnel. Unless a Montanan had one of these Comfort One credentials, EMT personnel would try to resuscitate the individual.

What is the difference between Comfort One and POLST?

POLST is Montana’s Provider Orders for Life-Sustaining Treatment (POLST) program. A completed POLST form helps ensure all providers will respect patients’ wishes to have or limit specific medical treatments near the end of life. The POLST form is the official documentation of medical orders on a standardized form. This form informs healthcare professionals of the patient’s wishes. POLST is replacing Comfort One in Montana because the POLST form applies to all healthcare providers. A POLST form is available from physicians or other healthcare providers, or one can be downloaded online at boards.bsd.dli.mt.gov/_docs/med/polst/pol-app.pdf.

Who are considered health care providers?

A health care provider is a person who is licensed, certified, or otherwise authorized by the laws of Montana to administer health care in the ordinary course of business or practice of a profession. A physician, an advanced nurse practitioner, and a physician’s assistant are included.

What is the cost of filing an advance directive?

Filing an advance directive is free. The Montana End-of-Life Registry stores advance directives online at no cost to encourage every Montanan to take part.

Who can access an advance directive?

Section B of the Consumer Registration Agreement offers two levels of privacy: standard and higher. A person can specify whom they want to have access to their advance directive and at what level of privacy.

- Standard Privacy allows a person access to an advance directive anytime. Healthcare providers registered with the Attorney General’s Office can access an advance directive 24 hours a day. Anyone with the declarant’s Social Security number, birth date, mother’s birth name, or name and access code can access the advance directive online.
- Higher Privacy allows access online only to the person who filed the advance directive, registered health care providers, or anyone the declarant named and provided the access code.

How does a declarant know if their advance directive has been entered into the End-of-Life Registry?

Within three weeks of receiving an advance directive, the Office of Consumer Protection sends a letter saying whether the forms are accepted or rejected. If the Office of Consumer Protection determines that the advance directive does not meet Montana's legal requirements, the form and the Consumer Registration Agreement are returned with a letter providing additional instructions. After the corrections are completed, the declarant returns the forms to the End-of-Life-Registry.

Once approved, the advance directive is entered into the Montana End-of-Life Registry, and the declarant is sent a letter confirming the identifying information. Also enclosed are:

- A wallet card showing the access code to check the advance directive through the online Montana End-of-Life Registry.
- Four labels to place on the back of a driver's license, health insurance card, automobile insurance card, and another location of their choosing.

Who should know about a person's advance directive?

A copy of the advance directive should be provided to a physician or other health care providers. These health care professionals must make the advance directive a part of the person's medical record and follow its provisions. A person should also provide a copy to family members so they can be aware of the declarant's health care preferences.

If another individual has been named (termed a designee) to make decisions about withholding or withdrawal of life-sustaining treatment, the designee should be provided with a copy of the person's advance directive. When a person is named as a designee, the attending physician or other health care provider must follow the designee's instructions about end-of-life care.

Who can be contacted for further information about the Montana End-of-Life Registry?

The Montana Attorney General's Office and the Office of Consumer Protection staff cannot provide legal advice or legal services, such as guidance on writing an advance directive. They can, however, answer questions about the registry. The registry staff can be contacted via e-mail at endofliferegistry@mt.gov or by calling the registry's toll-free number, 1-866-675-3314, between 8 a.m. and 5 p.m., Monday – Friday.

A doctor, attorney, or other professional specializing in end-of-life care issues can also answer questions about advance directives. Further information is available online from government and non-profit organizations. Examples include:

- Aging with Dignity – Five Wishes Program
P.O. Box 1661
Tallahassee, FL 32302-1661
Phone: 850-681-2010
Fax: 850-681-2481
fivewishes.org
- Compassion and Choices
8156 S. Wadsworth Blvd #E-162
Littleton, CO 80128
Phone: 800-247-7421
compassionandchoices.org
- Mayo Clinic: Living wills and Advance Directives for Medical Decisions
134 E. Shea Blvd
Scottsdale, AZ 85259
mayoclinic.org/healthy-lifestyle/consumer-health/in-depth/living-wills/art-20046303
- Montana Senior & Long-Term Care Division
Legal Developer Forms, Living Will and Health Care Power of Attorney
1100 N. Last Chance Gulch, 4th Floor
Helena, MT 59601
Phone: 406-444-4077
dphhs.mt.gov/sltc/aging/legalservicesdeveloper

Summary

An advance directive provides instructions about health care if a person cannot make these decisions. Montanans can securely store their advance directives at the Montana End-of-Life Registry. The End-of-Life Registry is free to Montanans. Immediate access can be provided to authorized health care providers and family members. An advance directive can be changed at any time. An advance directive cannot be filed or changed online.

Additional resources

MONTANA DEPARTMENT OF JUSTICE, OFFICE OF CONSUMER PROTECTION

- My Choices Advance Directive
 - Sample filled out app.mt.gov/walkthrough/registry/docs/registry.pdf
 - Advance Directive Form, print out and fill in the blanks dojmt.gov/wp-content/uploads/My-Choices-Advance-Directive-8.28.17.pdf
- Consumer Registration Agreement dojmt.gov/wp-content/uploads/EOL-CRA.pdf

MONTANA STATE UNIVERSITY EXTENSION

- *Health Care Power of Attorney and Related Documents for Montanans* (EB0231) store.msuxextension.org/Products/Health-Care-Power-of-Attorney-and-Related-Documents-for-Montanans-EB0231__EB0231.aspx
- MSU Extension MontGuide *Living Wills (Declarations in Montana)* (MT199202HR) [store.msuxextension.org/Products/Living-Wills-\(Declarations-in-MT\)-MT199202HR-\(formerly-Montana-Rights-of-the-Terminally-Ill-Act\)__MT199202HR.aspx](http://store.msuxextension.org/Products/Living-Wills-(Declarations-in-MT)-MT199202HR-(formerly-Montana-Rights-of-the-Terminally-Ill-Act)__MT199202HR.aspx)
- Declaration (direct physician or attending advanced practice registered nurse to withhold life-sustaining treatment) montana.edu/estateplanning/Declaration-directphysician.pdf
- Declaration (designating another individual to make the decision) montana.edu/estateplanning/Declaration-designatingindividual.pdf

PROVIDERS ORDERS FOR LIFE SUSTAINING TREATMENT (POLST)

- POLST form boards.bsd.dli.mt.gov/_docs/med/polst/pol-app.pdf

Acknowledgments

Appreciation is expressed to the following for reviewing this MontGuide and recommends its reading by those who want to know about the End-of-Life Registry:

- Businesses, Estates, Tax Trust and Real Property Section, State Bar of Montana
- Office of Consumer Protection, Attorney General's Office

Disclaimer

The material appearing in this MontGuide is presented for informational purposes only. The goal is to help Montanans develop an understanding of the Montana End-of-Life Registry. The contents should not be viewed as legal advice about advance directives or used as such. Contact an attorney for legal information about a health care (medical) power of attorney.



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(ESTATE PLANNING)**

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